DOCUMENT RESUME

ED 097 234 SO 007 785

AUTHOR	Feeney, Michael J.; Wangen, Roger K.
TITLE	The Student Lawyer. High School Handbook of Minnesota Law.
INSTITUTION	Minnesota State Bar Association, Minneapolis.; Minnesota State Dept. of Education, St. Paul.
PUB DATE	May 74
NOTE	283p.
AVAILABLE FROM	Social Studies Consultant, Department of Education, St. Paul, Minnesota 55101 ($2.85 paper copy)
EDRS PRICE	MF-$0.75 HC-$13.80 PLUS POSTAGE
DESCRIPTORS	Case Studies; *Citizenship Responsibility; Civil Liberties; Contracts; Criminal Law; Drug Legislation; Due Process; Equal Protection; Guidelines; Justice; *Law Instruction; *Laws; *Legal Problems; Marriage; Parent Responsibility; Secondary Grades; Social Studies; *Youth Problems
IDENTIFIERS	Civil Law

ABSTRACT

Student and teacher materials are included in this book on Minnesota laws which directly affect the lives of high school students. The laws are grouped into six broad categories insofar as they are related to major areas of a student's life, i.e., civil law, home, school, marriage, the criminal justice system, and alcohol and drug laws. After introducing the topic to the student, each section presents a pretest, educational objectives for the topic, "mini" case problems, and at least one fairly complicated case story involving several legal questions. Information is also included to clarify the legal questions involved. Teacher's notes, following each topic unit, include responses to self-quizzes and an outline of case studies issues requiring discussion. A teacher's foreward describes the strategies and resources for using the handbook. Information on the availability of a slide show and suggestions for outside research assignments are given. Appendixes on the judicial systems, due process, and equal protection conclude the handbook. Although geared particularly to the law of Minnesota, this guide could be used in other states. (JH)

C6

The

Student Lawyer

High School Handbook of Minnesota Law

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1883

Published as a Joint Venture
Minnesota State Bar Association
Minnesota Department of Education

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PUBLISHED MAY 1974

SO 007 785

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ACKNOWLEDGMENTS

In recognition of significant contributions, the Minnesota Department of Education and the Minnesota State Bar Association extend their heartfelt appreciation . . .

To the Authors and Editors, who put it all together . . .

Joseph L. Daly
Michael J. Feeney
Dean Douglas R. Heidenreich
Gerald A. Regnier
Violet J. Sollie
Marcy L. Wallace
Roger K. Wangen

To the Teachers who took a first look at the materials in October, 1973, and helped make them better . . .

Gordon Ashby
Forest Lake

Richard Byrne
Minneapolis

Dan Conrad
University of Minnesota

Paul Fredrickson
Minneapolis

Bob Gaarder
Mankato

Bruce Hentges
St. Cloud

Joe Nathan
St. Paul

Gus Ollrich
Hutchinson

Bob Rader
Alexandria

Brian Richards
North Branch

Thomas Smith
Hopkins

James Stromberg
Minneapolis

Gary Thomas
Elbow Lake

Richard Willard
Forest Lake

To the "Panel of Experts" who made a second evaluation of the materials in March, 1974 . . .

Hon. Lindsay G. Arthur
Hon. Donald T. Barbeau
Theodore J. Collins
James P. Cullen
Melvin B. Goldberg
Dr. G. J. Greenawalt
Dr. Carl Grittner
Phyllis G. Jones
Thomas P. Kane
Dr. James Mackey
Hon. Warren Spannaus
Rodger D. Squires

To the Young Lawyers Section of the Minnesota State Bar Association, who will act as a continuing working "backbone" of the program as it is used across the state . . .

To the Minnesota State Bar Foundation, the law development arm of the State Bar which has underwritten this project as a contribution to our state community, and especially to its President, John D. Levine, and Past-President, M. David McCloud . . .

To the officers and commissioners, department heads or chairmen of the joint sponsor organizations for providing authorization and encouragement, especially to the State Department of Education for making these materials available free to over 20,000 Minnesota high school students as a part of their social studies curriculum . . .

To our talented artist, George F. Lalla and the ladies of the State Bar Office, who have spent countless hours of typing and proofreading . . .

And finally, to the teachers and students of Minnesota who will use this material and by this use provide the ultimate value to this project.

THE STUDENT LAWYER

General Introduction

Is a baby-sitter legally negligent if she fails to prevent a four-year-old from being burned? . . . If your rent is paid, can your landlord have you removed from your apartment for inviting a girl or boy friend to live with you? . . . How much of your personal freedom can be taken from you before such action becomes an arrest? . . . When you sue someone, what kind of evidence do you need in court? Is your word against his enough? If you are older, or your record "cleaner," does this matter? . . . Since your buddy would have let you use his "trail bike" if you had only asked, could it be a crime to "borrow" it without asking?

Did you ever consider how few of your friends are criminals . . . yet how many people act as though the criminal law is the only law? On the other hand, most law-abiding persons hate revolution and violent overthrow of law . . . but the logic of such thinking would have kept this country a British Colony forever.

YOU are essential to the continuous development of workable answers to the many questions underlying a system of laws. Are you willing to analyze these questions and make your answers work? Will you develop the skills necessary to generate confidence in yourself with this ability to identify your own needs and those of your society? Can you accept self-discipline and accountability as well as rights and privileges? Can you help build something which you can respect?

The lawyers and judges of this state, in cooperation with those to whom state law has entrusted your education, have prepared this handbook to provide an accurate and intriguing entry into the law. Your creative imagination can sharpen these tools to fashion a more vital community.

This is a book of the Laws of Minnesota which directly affect the lives of high school students. Most of these laws have been enacted by the Minnesota Legislature, though some are the result of court decisions clarifying and interpreting the legislative statutes. A few references to federal laws, such as the minimum wage law, are also included. To help the student understand one of the institutions which uses laws and at times formulates them in making decisions, appendices on judicial systems and two fundamental principles of law, due process and equal protection, have been included.

While the laws are indexed according to specific headings, they are also grouped into six broad categories insofar as they are related to major areas of a student's life, i.e., civil law, home, school, marriage, the criminal justice system, and alcohol and drug laws. Incidentally, it is not anticipated that crime or drugs will be a major area of many students' lives, but that most will have some contact with criminal penalties such as traffic violations. Also, many will be victims of theft or vandalism, or other forms of criminal acts. Some knowledge of the criminal law will be of real value in protecting individual rights.

Each of these six sections has its own introduction and pre-test, with "mini" case problems and at least one fairly complicated case story involving several legal questions. These cases are similar to those faced daily by judges, lawyers and persons involved in legal disputes. Perhaps some students will become enthusiastic enough about the system of laws that they will go on to the study of law.

The first broad category we will consider is the "Civil Law" which covers all laws not defined by the state to be criminal. This is the area of day-to-day responsibilities and privileges through which the community sets guidelines for the rights and duties of individuals in their relations with each other. In this area are personal and civil rights. Here, too, we find property rights . . . private ownership and the right to peaceful enjoyment of one's possessions. From this logically follows the remedies open to one whose rights are violated through the intentional, careless or just plain dangerous acts or torts of another. Are minors treated any differently than adults when they abuse the rights of others? Are parents responsible for the torts of their children? Can you sue someone for failing to respect your rights? Are you old enough to purchase a car? What are the legal effects of your agreements or contracts?

All the cases in this booklet are designed to ask the questions answered by the laws, in a manner similar to the problems faced by a legislature or a court. Your own experience, common sense and good judgment will help you in solving the cases. Then check them against the present law in Minnesota to see if the legislators and judges agree with you. You may find some instances in which, in your opinion, a wholly unjust result was reached. Other sections of this book will assist you in attempting to change the law. In the back of the booklet, you will find a list of agencies offering assistance in assuring your rights under the law.

Merely to read the laws would be like reading an encyclopedia. At best you would find it interesting, but remember little. However, as a reference in answering questions directly affecting your life or that of someone close to you, this book will hopefully have a real usefulness all its own.

Care has been taken to assure the accuracy of this information prior to publication. However, such care should not be considered a guarantee of accuracy. When specific legal problems arise, consultation with a lawyer is encouraged. It is essential that continuous updating be a part of the use of these materials, through reference to court decisions and legislative action. One major objective of the program is to provide ready access to such review through familiarity with existing law.

The loose leaf format will make it easy to update as the laws change. Also, its value will increase greatly as you include your own notes and other additions . . . investing of yourself to assure its ultimate success.

Duplication of The Student Lawyer materials for educational purposes with proper credit is encouraged.

TEACHER'S FOREWORD: STRATEGIES AND RESOURCES

A second possible title for this project might have been, THE LAW . . . BY REQUEST. The State Department of Education and the State Bar Association regularly receive requests for material to use in teaching and learning about law. Particularly is this true in the wake of the 1973 Minnesota legislation conferring adult citizenship on 18-year-olds.

Knowing of your active offer to participate we have felt the burden shift . . . we must come up with a workable program fitting your expressed needs.

In October, 1973, following a year and a half of preparation, we attempted our first draft dry run. This took the form of a one-day workshopfor seventeen secondary school teachers of civics, government and social studies, selected at random by geographic location throughout Minnesota. To imply that this experience generated revisions is to understate grossly . . . we literally redesigned our drawing board. Among other things we discovered we had raised more questions than we had answered. While granting that the law does not lend itself to pre-packaged solutions, we know too well that one of its great attributes is stability, on which the community has a right to rely, even to the extent that every citizen is expected to have a working knowledge of the law. For most, high school is the ultimate opportunity to learn the law prior to its sometimes rigorous application in everyday living.

Continuing contact with classroom teachers has determined the following content requirements which we have tried to incorporate in a way that would spontaneously generate your enthusiasm to "give it a go."

INITIAL DISTRIBUTION A combined set of materials for teachers and students has been sent directly to every secondary school teacher of civics, government and social studies in Minnesota.

CLASSROOM SETS Classroom sets are anticipated to be available next fall through the Social Studies Unit at the Minnesota State Department of Education. Meanwhile, you are encouraged to duplicate and circulate these materials freely for class participation.

STATED LAW The Minnesota Statutes have been carefully researched to cover comprehensively in question and answer form every law of significance and interest to junior and senior high students. Court decisions interpreting these statutes have also been included.

CASE PROBLEMS

Case problems introduce and end each chapter . . . to intrigue the student initially, then to give him a chance to apply learned principles and ordered thought. The introductory case typifies the chapter content. The concluding cases are designed to help the student relate a practical fact situation to the stated law. These case problems also provide for small group interaction by students, to clarify the facts, to generate additional questions, and to support the conclusions they reach.

TEACHER'S NOTES

Chapter notes are designed to assist you in helping the students frame the issues raised by the case problems. Actual student agreement as to the ultimate "answers" should not be controlling. Rather, a clear understanding of the questions raised by either side of the legal dispute should be the goal. The judge and jury decide such disputes, yet the lawyer must be able to present the questions clearly, knowing well the arguments favoring either side, while advocating the position of his client. Seemingly unanswerable questions will stimulate directed brainstorming techniques for identifying community resources to investigate in seeking answers. Formulating specific questions may well uncover some answers, as well as assure cogent interviews of resource persons.

PRE-POST TESTS

Initial logic, common sense and prior experience will ideally enhance student comprehension of existing law . . . to be reflected in the self-quiz test results.

EDUCATIONAL OBJECTIVES

The value of this program will be determined by your judgment of whether the stated objectives in each chapter are educationally sound and whether these objectives are fairly met by the content.

HELP!?

To assist you in planning . . . to join you in teaching this material, the Young Lawyers Section of the Minnesota State Bar Association has established lawyer panels throughout the state, available at your request.

UPDATE REVISION All reasonable care assures the currency of program content through the April, 1974, initial publication date, including the actions of the 1973-74 legislative sessions (e.g., "No-Fault" Automobile Insurance; "No-Fault" Divorce). The loose-leaf format lends itself to the easy addition of supplementary material, updating and revision. Depending on your evaluation, suggestions and expression of needs, the joint sponsors plan to make such changes available, including additions and alterations.

RESOURCES Please preview the Appendix for information applicable to every chapter, including the concepts of due process, equal protection and the practicalities involved in enforcing the law. Here too are contained references to outside resources.

While our initial imposition on your good will comes by way of an enrichment program . . . our real goal is to have The Student Lawyer, on its own merits, carve out a place for itself as a sound curriculum course.

TEACHING STRATEGIES AND RESOURCES

1. The Teen Law Quiz

The Minnesota State Bar Association has available a color slide presentation of 26 true-false questions with answers. Accompanying the slide presentation are pamphlets also entitled "The Teen Law Quiz," which contain a quiz of similar content and format. Our previewing teachers have told us this is excellent material to introduce this program on the law.

To order "The Teen Law Quiz," please write the Minnesota State Bar Association, 100 Minnesota Federal Building, Minneapolis, Minnesota 55402. As of April, 1974, we have four slide sets in circulation; availability will be on a prior reservation basis.

2. Young Lawyers' Panel

The Young Lawyers' Section of the Minnesota State Bar Association has taken it upon their organization to provide a panel of lawyers in each State Bar District. These lawyers will be available to you for consultation prior to and during use of The Student Lawyer. Consider contacting them to assist in the actual teaching of these materials.

As the first step in contacting your local panel member, again please write the Minnesota State Bar Association.

3. Model Assignments

It is anticipated that you might want to assign some outside research projects to the students, or that interested students might want to look further into specific areas of the law.

While you are, of course, free to use your own imagination in assigning research subjects and tasks, we suggest that students might profit from the following activities:

a. Research Of Local Ordinances

Students would first determine which local ordinances they wish to research (examples are leashing laws, curfews, littering, zoning ordinances). They could then form groups to carry out the research. Possible research sources would be the county law library, county attorney's offices, city or village clerks, or law enforcement authorities. Students may want to consult the family attorney of one or more members of the group. Your Young Lawyer panel members might have further suggestions as to research facilities.

You may wish to have the class set some ground rules as to procedures and decorum while conducting this research so that serious research efforts are returned in report form to the class, without duplication and possible subsequent restrictions on the availability of these sources for future classes.

b. Research Of "The Changing Law"

Students might elect topics in the law which have been subject to change in the past several years. A brief outline of sample topics will be found below. Again, students may well select topics to research in groups.

Suggested Topics

1. "Good Samaritan" Laws Some states have laws which require all bystanders or passersby to stop and render assistance to accident, disaster, and criminally injured victims. Other states limit this requirement to medical personnel, while still others require it only of public safety personnel. What serious legal responsibilities and liabilities arise or can arise from these laws? Should these laws be limited or general in application? What is the public policy behind these laws? Given all considerations, is this policy sound?

2. Payment To Victims Of Crime Several states have passed laws requiring public compensation for the direct expenses of victims of murder, criminal assault, etc. The Minnesota Legislature has sent such a bill to the Governor. Again, questions of public policy arise, covering whether such compensation should be extended only to "hardship" cases, possible limitations

on types of crimes or types of loss suffered and cost to the general public.

3. "Victimless Crimes" Various legal commentators have called some crimes victimless, such as gambling, sexual acts between consenting adults, prostitution, vagrancy, etc. Students might pick a topic and report on the public policy considerations. Should crimes without victims be crimes? Is there such a thing as a crime without a victim, considering the effect on the community? Is it the proper function of society to legislate morality? Are there public considerations that override private rights when talking about such activities?

4. Citizen's Arrest Citizens can make valid arrests under certain circumstances. For example, a storekeeper may detain shoplifters for immediate police investigation. What are some of the other circumstances where citizens can make valid arrests? Should citizens be given such a power at all? If so, when? What are the ways this power can be abused? What are the arresting citizen's responsibilities to the victim of a false arrest?

Depending on the age and ability of the class, other interesting controversial topics might be chosen which combine political, philosophical, moral or constitutional questions within a legal framework.

Consider for example pornography laws, abortion, busing to achieve racial integration, discriminatory practices, powers of the police, conflicts between branches of government and aid to parochial schools.

4. Debate

Consider assigning members of the class to debate certain stated resolutions, such as:

a. Resolved that the "common good" of the community shall be the will of the majority of its citizens.

b. Resolved that one can hold high political office and retain his personal honesty and integrity.

c. Resolved that a democracy is the best form of government.

d. Resolved that rule founded on strong leaders is superior to rule founded on written law.

e. Resolved that the rights of an individual must yield to those of the community or state.

f. Resolved that all men are created equal.

5. Creative Legislating

Using a science fiction or other imagination technique, students could easily be intrigued into projecting hypothetical situations, including the laws necessary to deal with them. The following is an illustration:

A local creative inventor has developed for sale a few "people copters" for $1,200 each. These machines strap around the person's shoulders and rest on the lower back; the prop or lifting parts are overhead. The "copter" is capable of lifting about 250 pounds. What present laws govern this new device? Assume no laws pertain, what problems would arise that necessitate new laws? How many students think they could "find" $1,200 for this machine? What kind of rules would a school have to develop to regulate this device?

6. Field Trips

There are obvious opportunities to utilize this well-established teaching device and learning experience for the student, particularly trips to a local court while it is in session. However, you might try to maximize the learning experience by having one or several students give a report about that court. Some areas that might be reported upon include the court's jurisdiction (geographical area, dollar limitation or type of case), court personnel and court procedures. You might also follow up a visit with discussion as to what the class observed while there, geared to the rights afforded the parties, and whether the class feels that justice was or will be served.

Field trips are not limited to courts. Perhaps you would like to visit a local legislative body meeting such as a city council or a county board of commissioners. In some locales teachers might also consider smaller administrative agencies such as park boards or taxation panels when they are open to the public. Here again some preparation and discussion afterward would heighten the results. One important unit of local government easily overlooked is the student council with related rallies and campaigns.

7. Workshop

Depending on your evaluation, suggestions and expression of needs, the joint sponsors will help arrange and staff periodic workshops throughout the state.

8. Other Resources

a. Annual Report: Minnesota Courts
Office of the State Court Administrator
Minnesota Supreme Court (1973)

b. "Bibliography of Law Consumption"
State Department of Education (1971)

c. 1974 Comprehensive Plan of the Governor's Commission on Crime Prevention and Control
Governor's Crime Commission

d. Minnesota County Court Manual
Office of the State Court Administrator
Minnesota Supreme Court

e. Minnesota Judiciary: Structures and Procedures
League of Women Voters of Minnesota (1972)

f. Source Materials: High School Law Program
Young Lawyers Section
American Bar Association (1972)

g. The Minnesota Legislative Manual 1973-1974
Secretary of State
State of Minnesota

There is a whole host of commercial publications dealing with high school legal education, too numerous to list here. The State Department of Education offers continuing assistance in securing these materials.

EXPLANATION OF CITATIONS

The Student Lawyer can be compared to the tip of an enormous iceberg, with the tip being the laws we have covered which pertain most closely to students. The rest of the iceberg would be composed of the many thousands of statutes, case decisions, administrative rulings and ordinances which have been recorded.

Lawyers must have a general knowledge of the whole "iceberg," though no one lawyer could hope to be proficient in every area of the law. Likewise, no one lawyer or judge can be expected to remember the entire body or even a substantial part of the law specifically. This is why when lawyers argue their cases in court or write down their arguments in statements called briefs, they always specify the statutes, cases or rulings they are relying on, and exactly where they may be found. This is called citing.

The following are explanations and examples of the citations that have been used in The Student Lawyer:

Federal Citations

U.S.C.:

a) United States Code - The official statutes of the United States.

b) 29 U.S.C. Sec. 206 means that a specific law may be found in Section 206 in Volume 29 of the United States Code.

U.S.:

a) United States Reports - The official record of United States Supreme Court cases.

b) Stanley v. Illinois, 400 U.S. 1020 (1972) means that case may be found on page 1020 of volume 400 of United States Reports and was decided in 1972.

F. 2d:

a) Federal Reporter, Second Series - The official record of Circuit Court of Appeals cases.

b) 477 F. 2d 1292 (8th Cir., 1973) - Volume 477, page 1292 of the Federal Reporter 2d for the case, which was decided by the Circuit Court of Appeals for the 8th Circuit in 1973. (Minnesota is one of seven midwestern states in the 8th Circuit.)

F. Supp.

a) Federal Supplement - The official record of Federal District Court cases.

b) 342 F. Supp. 1224 (D. Minn. 1972) - Volume and page system the same for the case decided by the Federal District Court for Minnesota in 1972.

Note: Sometimes you will see a case cited 342 F. Supp. 1224 (D. Minn. 1972); aff'd 477 F. 2d 1292 (8th Cir., 1973). The only additional item you need to know here is that "aff'd" means the case was affirmed by the 8th Circuit Court of Appeals. In this case, it means that the 8th Circuit agreed with the decision of the Federal District Court of Minnesota.

Minnesota Citations:

Minn. Stat.:

a) Minnesota Statutes - The official statutes of the State of Minnesota.

b) Minn. Stat. Sec. 540.18 means a specific law can be found in Chapter 540, Section 18 of the Minnesota Statutes.

M.S.A.:	a) Minnesota Statutes Annotated - An unofficial compliation of statutes with comments and interpreting cases. b) M.S.A. Sec. 609.07 - This citation is found in the same manner as the Minnesota Statutes.
Minn.:	Minnesota Reports - The official report of Minnesota Supreme Court cases.
N.W. 2d:	Northwestern Reporter, Second Series - Unofficial reports of cases decided in several upper midwestern states. Usually, the two reports above are cited together. For example, Dellwo v. Pearson 259 Minn. 452, 259 N.W. 2d 859 (1961). These citations are used the same as the above federal citations. The case can be found at either location.
Op. Att'y Gen.:	a) Opinions of the Attorney General - An official collection of selected written opinions of the Attorney General, which are requested interpretations of Minnesota law. b) Op. Att'y Gen. 217-F-3 December 15, 1955 - This opinion can be found in the files of Opinions of the Attorney General, file Number 217-F-3, for 1955.
Minn. R.C.P.:	a) Minnesota Rules of Civil Procedure - The official rules for proceeding with a legal action in the courts of the State of Minnesota. b) Minn. R.C.P. 17.02 means Rule 17, Section 02 of the Minnesota Rules of Civil Procedure. These rules may also be found in Volume 27A, Minnesota Statutes Annotated.

Minn.
J.C.R.: a) Minnesota Juvenile Court Rules - The official rules governing all juvenile court proceedings, except in Hennepin and Ramsey Counties, which have their own rules.

b) *Minn. JCR* 5-4 means Rule 5, Section 4, Minnesota Juvenile Court Rules.

Local Citations:

Mpls. Ord.
Code: a) Minneapolis Code of Ordinances - The official ordinances of the City of Minneapolis.

b) *Mpls. Ord. Code* Sec. 408.050 means a specific ordinance can be found at Chapter 408, Section 050 of the Minneapolis Code of Ordinances.

St. Paul
Leg.
Code: a) St. Paul Legislative Code - The official ordinances of the City of St. Paul.

b) *St. Paul Leg. Code* Sec. 1045.180 means that a particular ordinance can be found in Section 1045, Subdivision 180 of that collection.

We have already indicated that we have attempted to make this booklet up to date as of the date of publication. However, laws change and some change very rapidly. It is important that you know there are tools to update the law in these materials for your own research. These tools are called "citators," which are books which list all cases or statutes which pertain to or make changes in the case or statute you have looked up. The most famous of the citators is *Shepard's Citators*, which is so widely used that lawyers call checking their sources for continuing validity and updating "shepardizing."

Shepardizing is fairly easy to learn to do, but you need to have a Shepard's Citator in front of you to understand the instructions clearly. Ask your resource person or a law librarian to show you how to do this when you do your research.

Chapter 1

Civil Law

- TORTS
- CONTRACTS
- PROPERTY RIGHTS
- WILLS
- PATERNITY AND ADOPTION

John, a ten-year-old, borrows a two-week-old 10-speed bike from his neighbor and friend, Fred, who recently while using John's bike accidentally broke it. John, just prior to returning it, loosens the nuts holding the front wheel. Fred, who has an early morning paper route, is seriously hurt the next day when his front wheel falls off.

What can Fred do?

Fred's parents?

Who pays the hospital and doctor bills?

Who pays for damages to Fred's bike?

Has a crime been committed?

Can Fred sue?

Whom?

INTRODUCTION

While criminal laws seek to regulate the conduct of an individual and to provide a punishment if his conduct does not conform to the rules (see Chapter V on criminal law) the civil law deals with relationships among individuals. If you violate a criminal law you may be arrested and tried and punished by the State. If you do something that injures your neighbor you may or may not have broken a criminal law but whether you have or not the neighbor may sue you and perhaps recover money damages because of the wrong that you have done him.

The injury that you have caused him may arise out of an intentional or an unintentional act. If for example you tell lies about someone and he is injured as a result he may sue you. If you cause him to receive personal injuries, whether intentionally (as in a fight) or unintentionally (as if you carelessly leave your rake on the sidewalk and he trips over it) he may sue you and recover. These kinds of acts are called torts.

Similarly, if you make a binding legal promise and then fail to keep your promise, the person to whom the promise was made may sue you and recover because you have breached your contract. The law governing the creation and enforcement of contracts is complex but in simple terms we can say that the law establishes formal rules that must be complied with to create a binding contract and that if a binding contract is created both parties are expected to live up to it. If one of them does not fulfill his obligations the law provides a remedy to the other party which, as nearly as possible, puts him in the same position he would have been in had the contract been performed.

This chapter is designed to tell you something about the rules of tort and the rules of contract as they apply to young people. You will see that in some cases young people are treated the same as anyone else and in other cases they are given certain advantages. To round out this brief study of the civil law, the chapter will also touch on property rights of minors, wills, paternity actions, and the related topic of adoption.

SELF-QUIZ

Before you read the chapter try your luck at the following true-false quiz. Answer the questions as best you can, based on your general knowledge; when you have completed the chapter go back to see whether you have changed your mind about any of your answers. The quiz will not be graded but is here simply to help you to find out how much you know about these matters.

1. Minors are liable for their own torts. ____True ____False
2. Parents are always responsible for what their children do and must pay if their children damage someone else's property. ____True ____False
3. A person will be liable to another person for a commission of a tort only if he intended to hurt that person. ____True ____False
4. A person under the age of 18 may sue and recover from another person for a tort committed against himself. ____True ____False
5. Minors are not allowed to make contracts. ____True ____False
6. If an adult enters into a contract with a minor the adult cannot be compelled to fulfill his obligations. ____True ____False

7. Anyone can make a will no matter how old he is.

____True ____False

8. A minor may own real property and personal property.

____True ____False

9. If the owner of a car lends it to his friend and the friend has an accident the owner is liable to the injured party.

____True ____False

10. If a minor enters into a contract he can call it off before becoming an adult. ____True ____False

11. A minor cannot be sued for paternity. _____True _____False

12. In Minnesota, an unmarried minor father cannot prevent the unmarried minor mother from giving up their baby for adoption if her parents' consent. ____True ____False

EDUCATIONAL OBJECTIVES
CHAPTER I: CIVIL LAW

Each student will be able to:

1. Define criminal law and civil law and be able to explain at least two differences.
2. Identify at least two examples of civil cases.
3. Define and give one example of a contract and show its relationship to a potential civil case.
4. Define and give an example of a tort and identify at what age one becomes liable for torts and under what conditions a minor can sue for injury.
5. Define and identify the conditions under which a minor can own personal property.
6. Define a will and identify one major function of a will.
7. Define a paternity suit and identify under what conditions one may sue or be sued.

Upon completion of this chapter the student should have some appreciation of the nature of his rights and obligations as a member of society where contractual relationships and tortious contacts arise. He should be aware that as a minor he has certain rights and limitations not imposed upon other members of society.

The student should know specifically the difference between contract liability and tort liability and should be aware of some of the specific problems in each area. He should also have some appreciation of the limits imposed by the law on the ownership and control of property by minors.

I. CIVIL LAW

WHAT IS THE CIVIL LAW?

Civil law is the opposite of criminal law in that it deals with private rights. Under the criminal law the State takes a person to court and asks that he be punished by fine or imprisonment for an act harmful to society. The civil law involves one person taking another to court to settle a dispute between them. Usually the person who sues asks for damages (the payment of money) from the other. Sometimes one person will ask for the court to prohibit the other person from doing something - this is called an injunction. The person asking for relief is called the plantiff; the person he sues is called the defendant.

A. Torts

WHAT IS A TORT?

A tort is an injury to a person or damage to someone's property that is caused by another person's acts. There are three main kinds of torts: intentional torts (injury done on purpose); negligent torts (caused by carelessness); strict liability (torts resulting from some kinds of conduct that are very dangerous and some other special cases). A person who commits a tort can be sued and may have to pay for the damage he caused.

CAN A MINOR BE SUED FOR A TORT?

Yes. Even small children can be sued for their torts. Being under age does not allow one to hurt other people. (Johanson v. Lunda, 157 Minn. 260, 195 N.W. 917 (1923)). The person you hurt could get a judgment against you and wait until you are older and have some money and property to collect. A judgment is an official court paper that says that you have lost a lawsuit and that the person who won is entitled to receive a certain amount of money from you. Judgments are renewable and can be kept active for several years.

WHAT KINDS OF THINGS MIGHT BE TORTS?

Strict liability is uncommon and it is unlikely that you would do anything which would result in this although it might apply if you were using dynamite or some other explosive. If you do that, you could be liable for damages to anyone who was hurt even though you were very careful and could not have avoided hurting them.

You are not likely to commit an intentional tort either. The most common of these are assault (hurting somebody in a fight or deliberately injuring them in some other way); fraud (deliberately lying to someone to cheat them); and libel or slander (telling lies about someone and hurting that person's reputation).

Negligent torts are more common. There are many ways to hurt someone by carelessness, but the one most familiar to most of us is the automobile accident. If you drive a car or other motor vehicle carelessly and cause an accident you may be liable. It is obviously negligence to drive while you are intoxicated, to speed, to drive on the wrong side of the road, or to run a red light. In other cases, whether you were careless depends on the specific facts; if you are sued, a jury would decide whether you were careless.

ARE MINORS TREATED DIFFERENTLY THAN ADULTS?

There are two major differences when a minor is sued for a tort. First, no minor can go to court without a guardian ad litem -- this is a special legal term which refers to an adult appointed by the court to represent you at the time of the trial. The guardian works with your lawyer to protect your interests and usually has the power to make the decisions about how the lawsuit is to be handled. Usually the guardian is one of your parents, although it can be any other adult; if you need a guardian, you can go to court and ask the court to appoint one for you. (Minn. R.C.P. 17.02) Second, in deciding whether a minor has been negligent, the law compares his acts with those of a reasonably careful adult. The minor's more limited experience is taken into account and he is not required to act as quickly or as well as an older person who has more experience. However, when a minor operates an automobile, airplane or boat, he loses this special protection. The law says that when he uses these dangerous machines he must act as a reasonably careful adult would in the same circumstances. (Dellwo v. Pearson, 259 Minn. 452, 259 N.W. 2d 859 (1961)).

CAN A MINOR SUE ANOTHER PERSON FOR A TORT?

Yes. However, again you must have a guardian, and if you have medical bills, your parents must sue to collect the bills since *they* are liable to pay them. (*Minn. Stat.* Sec. 540.08) Your parent or guardian ad litem may settle the suit for you if the other side offers to pay you some money without going to court. However, the law requires them to obtain the the judge's approval of a settlement so that you will be protected. (*Minn. Stat.* Sec. 540.08)

DO MY PARENTS HAVE TO PAY FOR DAMAGE CAUSED BY MY TORTS?

Usually no person has to pay for the torts of another person, but there are some exceptions. Your parents can be required to pay for any malicious damage you do to a person or property, but the total amount that they will have to pay is $100. (*Minn. Stat.* Sec. 540.18) You could still be sued to pay for the rest of the bills if the damage was greater than $100. If you cause an accident with your parents' car they will be liable for the damage you cause. This is not because they are your parents, but because they are responsible for the acts of *anyone* who borrows their car with their permission. (*Minn. Stat.* Sec. 170.54) You would still be liable too, and both you and your parents could be sued.

DOES THIS MEAN THAT IF I BORROW A FRIEND'S CAR HE IS LIABLE FOR WHAT I DO?

Yes. The rule also applies if you use your employer's car while on the job. It also means that you should be careful about lending your own car to other people, because you can be forced to pay for the damage they cause.

CAN A BAR THAT SELLS ME LIQUOR BE FORCED TO PAY FOR MY ACCIDENT?

Yes. The Civil Damages Act (sometimes called the Dram Shop Law) says that if a person or company sells or gives liquor to another person illegally and that person becomes intoxicated and causes an accident, the one who provided the liquor can be liable. (Minn. Stat. Sec. 340.95) The Minnesota Supreme Court has said this statute also means that a person who serves you liquor at a private party can be responsible, if it was illegal for him to give you the liquor. (Ross v. Ross, 294 Minn 155, 200 N.W. 2d 149 (1972))

IS IT TRUE THAT BEING SUED FOR A TORT CAN RUIN ME AND MY FAMILY FOR LIFE?

It is possible but not very likely. However, if you injure someone badly or cause the death of a breadwinner, the loss of this person to his family can be very large. Since most people cannot afford to pay the damages arising for causing such injuries, they protect themselves with liability insurance. This kind of insurance pays the person you injured whenever you would be responsible to pay. Nearly everybody has automobile accident liability insurance, and most people have homeowner's insurance to protect the members of the family from other kinds of negligent torts. (If, for example, you carelessly hit a baseball into the pitcher's head, your parents' homeowner's insurance might pay for the damages.) There is no insurance you can buy which will insure against your liability for an intentional tort, so if you deliberately hurt somebody you might have to pay a great deal of money from your own pocket.

B. Contracts

WHAT IS A CONTRACT?

A contract is an agreement which a court will enforce in a lawsuit. It does not have to be written in most cases, but if it is verbal it will be harder to prove the contract was made. Each person must give something of value to the other person or promise to give something of value before a contract exists. If a person breaks his agreement, he can be sued and might have to pay damages to the other person so that that person will be as well off as he would have been if the agreement had been carried out. Courts may refuse to enforce contracts secured by force or fraud or entered into by incompetent persons.

IS IT TRUE THAT MINORS CAN'T MAKE CONTRACTS?

This is not exactly true. Minors can make contracts, but the contract of a minor is voidable. This means that the minor can refuse to go through with his agreement and cannot be forced to pay damages.

(Nichols & Shepherd Co. v. Snyder, 78 Minn. 502, 81 N.W. 516 (1900)) Even if the contract has been carried out a minor may decide while still a minor or within a reasonable time after becoming of age to undo the contract and get his money back in the case of a purchase. (Kelly v. Furlong, 194 Minn. 465, 261 N.W. 460 (1935))

CAN A MINOR EVER BE FORCED TO GO THROUGH WITH HIS CONTRACT?

Yes. A minor can be required to pay a reasonable price under a contract to purchase necessities (the things which he needs to live in a normal and moderate manner). (Miller v. Smith, 26 Minn. 248, 2 N.W. 942 (1879)) (Although the Minnesota Supreme Court has never had to decide the question, most other courts that have heard such cases have decided that a car is not a necessity.)

DOES THIS MEAN I CAN BUY A CAR, KEEP IT AND GET MY MONEY BACK BY VOIDING THE CONTRACT?

No. In order to recover your money you must return the property if you still have it. Even if the car has been wrecked you probably will still be able to avoid the contract but in Minnesota you will probably have to account to the seller for such benefit as you may have received from having the car in your possession.

WHAT HAPPENS IF I LIE ABOUT MY AGE SO THAT SOMEONE WILL MAKE A CONTRACT WITH ME?

This makes no difference; the contract is still voidable. (Conrad v. Lane, 26 Minn. 389, 4 N.W. 695 (1880)) This is due to the inexperience of minors in understanding the nature and propriety of contracts they may make.

CAN AN ADULT WHO CONTRACTS WITH ME REFUSE TO GO THROUGH WITH THE CONTRACT?

No. A minor's contracts are voidable at the minor's election. This means that they bind any adult who agrees to them.

C. Property Rights

CAN A MINOR OWN PROPERTY?

Yes. However, if the property he owns is substantial or valuable, the minor normally cannot use it or decide how it will be used. Normally property owned by a minor is "in trust." This means that the money is managed by a "trustee" - a person or bank which is required to protect the property and use it for the minor's best interests. A trust will sometimes have very specific rules about how the property is to be used and usually the minor will get complete control of the property on his 18th birthday.

WHY CAN'T A MINOR MANAGE HIS OWN MONEY?

Usually any property a minor owns has been left to him by his relatives at their death or given to him by a member of his family.

(Normally a minor does have control, at least as a practical matter, over the money he earns or personal items he owns.) However, the law believes that minors do not have the experience to manage large sums of money or valuable property. Wills of parents or other relatives are often written to put the property in trust. If there is no will, a court will appoint a guardian of the minor's property. (Minn. Stat. Secs. 525.56 and 525.504) Minnesota also has a "Uniform Gifts to Minors Act" which sets up a detailed system to make it easier for an adult to give stocks and bonds or life insurance policies to a minor. The statute requires that a custodian (similar to a trustee) be appointed to manage the property. (Minn. Stat. Chapter 527)

D. Wills

CAN MY FATHER CUT ME OUT OF HIS WILL?

Yes. If your father dies without writing a will, you are entitled to a share of all his property. The size of the share depends on whether your mother is still alive and how many brothers and sisters you have. In general, your mother would get at least one-third and you and your brothers and sisters would divide up the rest. Property would be distributed in the same way if your mother died. (Minn. Stat. Sec. 525.16) A husband cannot cut his wife out of his will nor can a wife disinherit her husband. (Minn. Stat. Sec. 525.16) A parent can disinherit a child, however, because the law does not forbid it. However, a child normally has some interest in the "homestead", the family home, and is protected by the parents' duty to support. (Minn. Stat. Sec. 525.145) See also Chapter II A: Parents and Children.

CAN A MINOR MAKE A WILL?

No. (Minn. Stat. Sec. 525.18)

WHO GETS A MINOR'S PROPERTY WHEN HE DIES?

Any property which you inherited from one of your parents would go to any other children that parent had or grandchildren or other descendants of that parent. Other property, in the case of an unmarried minor, goes to the minor's parents if they are living, and if not then to the minor's brothers and sisters or, if there are none, to some other more distant relative. (Minn. Stat. Sec. 525.16) If an unmarried minor had a child this property would go to the child. (Minn. Stat. Sec. 525.172)

E. Paternity & Adoption

WHAT IS A PATERNITY SUIT?

A paternity suit is a lawsuit to decide whether a particular man is the father of an illegitimate child and to require him to support that child if he is the father. The father of an illegitimate child is liable for the expenses of the mother's pregnancy, her medical bills, and support for her during the eight weeks before and the eight weeks after the child is born. He must also pay for the support and education of the child until it is an adult. (Minn. Stat. Sec. 257.251)

CAN A MINOR BE SUED FOR PATERNITY?

Yes.

CAN A GIRL'S PARENTS START A PATERNITY SUIT?

No, unless they have provided some of the support for the girl and the baby which they want to recover from the father. Normally only the mother, the child, the public welfare authorities or the county attorney can start a paternity suit. (Minn. Stat. Secs. 257.252 and 257.254)

IF A MINOR GIRL HAS AN ILLEGITIMATE CHILD CAN SHE GIVE IT UP FOR ADOPTION WITHOUT HER PARENTS' CONSENT?

If the girl is under 18 she must have the consent of her parents to give the child up for adoption. (Minn. Stat. Sec. 259.24 (2))

DOES A MINOR FATHER HAVE ANYTHING TO SAY ABOUT WHETHER THE CHILD IS GIVEN UP FOR ADOPTION?

This area of the law is very uncertain right now. Minnesota law says that the consent of the father of an illegitimate child is never required. (Minn. Stat. Sec. 259.24) The Minnesota law also says that the father does not even have to have notice of the adoption proceedings and the court hearings, although the judge can let the father know about it if the "interests of justice" would be promoted. If the father does learn of the hearing and is present, he may try to convince the judge that he should have custody, but he cannot stop the adoption. (Minn. Stat. Sec. 259.26) However, the United States Supreme Court has said that the father of an illegitimate child must be given notice of an adoption proceeding and a hearing to consider his fitness as a father must be held prior to adoption. The effect of this case on the Minnesota law is not clear yet. It is also unclear whether the rights an adult father has would apply to a minor who is the father of an illegitimate child. (Stanley v. Illinois, 405 U.S. 645 (1972))

NO-FAULT MOTOR VEHICLE INSURANCE

The references in this handbook to motor vehicle accidents and insurance are in accord with present Minnesota law which will continue in effect through December 31, 1974. Even at that time, the law involving accidental damage to motor vehicles or other property will remain unchanged.

Even with this no-fault law, certain circumstances are spec.-

However, on January 1, 1975, motor vehicle law involving injury to persons will change substantially, as a result of the so-called "no-fault" legislation enacted during the 1974 session. One way to understand this change is to compare it to the well known Blue Cross/Blue Shield insurance concept under which a person's own insurance company pays him the insurance benefits directly. Under the prior "fault" theory it was necessary to determine who caused the accident in order that the insurance company representing the person at fault could pay for the injuries he caused others. This was based on personal liability for negligent acts causing injury to another. The "no-fault" concept is that everyone owning or operating a motor vehicle would carry insurance against injury to himself (and injury to members of his household), payable directly to him by his own insurance company, regardless of who caused the accident.

Another important element of the new law is that "no-fault" insurance is mandatory. Anyone knowingly operating a motor vehicle (except a motorcycle) without this coverage is guilty of a misdemeanor and is subject to the loss of his license and motor vehicle registration for 6 to 12 months.

This law requires coverage to include $20,000 for hospital and medical expense benefits and an additional $10,000 to cover all other economic loss, such as loss of wages, funeral expenses and survivors' loss of support in the event of a death.

Even within this "no-fault" law, certain circumstances are specified which would once more call into play the "fault" theory, permitting one person to sue another for negligently causing an accident and require him to pay damages for non-economic loss such as pain and suffering. However, at least one of the following circumstances must result from the accident before such suits are permitted: 1) disability for more than 60 days, or 2) permanent injury, or 3) permanent disfigurement, or 4) death, or 5) medical expense exceeding $2,000.

NOTE: After you have completed this chapter, review it in light of "no-fault" to see if the answers to any true-false questions or the outcome of any case problems will be changed by the new law. (Note especially Q. 9 on p. 4; pp. 8-9-10; Problem 1 on p. 17; Q. 20 on p. 23; pp. 45-46.)

PROBLEM 1

John is a high school student, 17 years of age, who looks much older. One day he goes to Friendly Fred's Used Car Lot and buys an automobile, paying Fred $700 in cash. John drives the car for a couple of weeks and all goes well until he loans the car to William, a 16-year-old friend.

William, who looks considerably older than his age, goes to a bar where he is served enough liquor to make him drunk. He leaves the bar, gets into John's car, and before he has driven a block has an accident in which Carl, the driver of the other car, is seriously injured. John's car is totally demolished but, miraculously, William is unhurt. John has the car towed to Friendly Fred's lot and then offers to return the car saying that he wishes to void his contract and asks for the return of his $700. Fred refuses to return the money.

Consider the following questions:

1. If John sues Fred to recover his $700 will he be successful? Why or why not?
2. Whom may Carl sue? Will he be able to recover from any of those that he sues? If so, why? If not, why not?

PROBLEM 2

Helen and Herbert, both 17 years of age, obtained a marriage license with falsified birth certificates. They were married and rented an apartment. Herbert and Helen both worked and they lived comfortably until Helen became ill and incurred substantial medical bills.

As money became tighter and tighter Herbert couldn't pay the rent on the apartment and couldn't pay the medical bills. The couple then moved to the home of some friends where they could stay rent-free. The landlord from the apartment is claiming that he is entitled to eight months' rent for the balance of the term of a lease which both Helen and Herbert signed when they moved into the apartment.

Helen's parents had "washed their hands of her" when she married Herbert and want nothing to do with her. Herbert has now left Helen and is living with some friends. Helen is pregnant. Both Helen and Herbert are still 17 years of age.

Does the landlord have any valid claim against Helen or Herbert for rent?

Does Helen have any claim against her parents for her medical expenses?

What are Herbert's obligations to Helen?

Has Herbert committed any crimes?

* * * * * * * * * * * *

Now that you have thought about these problems go back to the quiz at the beginning of the chapter and see whether you will change your mind about any of your answers. Feel free to consult the text material in this chapter for assistance.

TEACHER'S NOTES
CHAPTER I.

Response to Self-Quiz should be as follows:

1. True (pages 5 and 7)
2. False (page 8)
3. False (pages 5 and 6)
4. True (pages 7 and 8)
5. False (page 5)
6. False (page 12)
7. False (page 14)
8. True (page 12)
9. True (pages 8 and 9)
10. True (pages 19 and 11)
11. False (page 15)
12. True (page 15)

DISCUSSION OF PROBLEM 1

This problem should elicit a discussion of the minor's obligations on his contract, the Civil Damages Act, and the minor's general liability for his torts.

The first question concerning what will happen if John sues Fred raises the following issues:

1. When and to what extent is a minor bound by his contract?
2. If the minor disaffirms his contract what must he do with the subject matter? Must he return it? Must he account for any benefit that he has received from it?
3. The facts are unclear whether John lied about his age. If he did, what difference would it make?

The question of whom Carl may sue should be broken down into three sub-areas.

1. May Carl recover from William?
    a. William, even though he is a minor, would be liable for his own torts. (At this point the possibility of recovery from William's parents might be raised. They of course would normally not be liable for his acts.)
2. What happens if Carl sues the bar owner?
    a. Is the bar owner liable under the Civil Damages (Dram Shop) Act?

       (A collateral question may be raised whether John could recover from the bar owner because of the property damage to his vehicle or, if John is successful in disaffirming his contract, whether Fred could recover from the bar owner on the same theory. The materials do not give the answer specifically and an investigation of the statutory text and the cases interpreting it might be fruitful at this point.)

3. What will happen if Carl sues John?
    a. John, the owner of the car, will be liable under Minnesota's Safety Responsibility Law mentioned at page 45.

DISCUSSION OF PROBLEM 2

Problem 2 takes off from the present chapter but relates essentially to matters covered in other chapters of the book.

The first question, whether the landlord has any valid claim against Helen or Herbert for rent, should be discussed in light of the general rules of minors' contracts along with the possible modification of the rule by the additional rule that a minor will be liable for the reasonable value of necessities which he contracts to purchase.

The answers to the balance of the questions must be provided by reference to Chapter II: Home and Chapter V: The Juvenile Criminal Justice System. (This kind of problem can be used as a lead-in to the latter two chapters or as a review at a later date if those chapters have been covered earlier).

Chapter 2

Home

HOME

[illegible]

School & Education

[illegible]

Running Away

Physical Punishment

[illegible]

Divorced Parents & Custody

Medical Care

Emancipation

RECREATION

Driver's License

Motor Vehicles

Hitchhiking & Pedestrians

Bicycles

Employment & Wages

Guns & Weapons

Hunting & Fishing

Movies & Publications

Pool Halls & Gambling

Public Dances

Curfew

Fireworks

Dogs

Littering

Mary, a 16-year-old, has a year-around job which permits her to work only part-time when school is in session. When her parents insist she pays part of her wages for board and room at home, she and her parents have a fight resulting in her leaving home with a seriously bruised arm and moving in with an older girl.

What responsibilities do her parents have for providing board and room?

If parents call the police, can the police force Mary to return home?

What can the school do?

Do her parents have any legal rights to Mary's wages?

INTRODUCTION

For the first eighteen years or more of your life you will probably live with your parents. When you are young they will provide food and clothing and a place for you to live, but as you grow older you may assume some of these responsibilities yourself. If you become a parent, you will have the same responsibilities as an adult parent, irrespective of your age.

The relationship between parents and children is a very special one subject to many rules of both statutory and case law. Each has certain obligations toward the other; however, the State also has an interest in protecting young people, particularly children who are unable to protect themselves. Therefore, if parents fail to discharge their responsibilities to their children the State may step in and go so far as to remove the children from the parents' custody, if that seems best for the child.

The second part of this chapter deals with rights and responsibilities which are initiated or pursued primarily from the home environment. You will notice that these are most nearly categorized as recreational in nature and of considerable interest at this time in your life.

The material in this chapter is designed to point out some of the problems that arise out of the parent-child relationship and suggest ways that the law uses to deal with these problems. It will also point out some of the basic rules imposed by the State regarding employment and recreational activities. Before you read the material in the chapter, review the following true-false questions to see whether your ideas about these topics are accurate.

SELF-QUIZ

1. A child who earns money at a job may retain his earnings and does not have to give any money to his parents.

____True____False

2. If a child misbehaves the parent may spank him.

____True____False

3. A child who runs away from home cannot be brought back from another state. ____True ____False

4. If his parents' marriage is dissolved a child has absolutely no say as to which parent he will live with. ____True ____False

5. Parents must always consent if a child receives medical treatment. ____True ____False

6. If a child goes to a doctor for a V. D. test the doctor is required by law to disclose the results to the parents. ____True ____False

7. Parents are required to provide only bare minimum amounts of food and clothing for their children. ____True ____False

8. If parents do not support their children the only consequence is that the children may be taken from them. ____True ____False

9. A child has no obligation whatsoever to his parents. ____True ____False

10. A child is automatically emancipated when he becomes 16 years old. ____True ____False

11. You must pass a special motorcycle test and receive a specially marked license to drive a motorcycle in Minnesota. ____True ____False

12. Driving a motor vehicle is a right enjoyed by a citizen of Minnesota once he has reached 16 years of age and passed a driver's license test. ____True ____False

13. Motor boats are not included in license laws for drivers and operators. ____True ____False

14. You can own a car without having a driver's license. ____True ____False

15. Trail bikes are prohibited on the streets and highways. ____True ____False

16. If you leave your old broken-down jalopy parked on the street for more than two days, the state can take it, auction it off, and keep the money. ____True ____False

17. After midnight your dune buggy may "turn into a pumpkin" as far as lawfully driving it is concerned. ____True ____False

18. Speed limits change with the weather. ____True ____False

19. An open bottle must be kept in the glove compartment or the trunk to be legal. ____True ____False

20. If your car is legally parked and is involved in an accident, you can still lose your license. ____True ____False

21. Hitchhiking is lawful in Minnesota if you stand in the street close to the curb. ____True ____False

22. As a general rule, the law favors pedestrians over moving traffic in Minnesota. ____True ____False

23. You can lawfully have more than one person on a bicycle riding on Minnesota roads. ____True ____False

24. The minimum age for employment in Minnesota is 14 years. ____True ____False

25. Anyone under 18 years of age who works in a beer parlor is a delinquent. ____True ____False

26. The minimum wage law does not apply to minors. ____True ____False

27. Minors cannot own guns. ____True ____False

28. Shooting game from a snowmobile is illegal. ____True ____False

29. It is illegal for a minor to go to an X-rated movie. ____True ____False

30. Minors may play pinball machines for prizes but not for money. ____True ____False

31. Sparklers are not considered illegal fireworks in Minnesota. ____True ____False

32. If your dog attacks someone, you are responsible for his damages even if the person had no right to be where he was at the time. ____True ____False

EDUCATIONAL OBJECTIVES
CHAPTER II: HOME

Each student will be able to:

1. Identify in general terms, what responsibilities parents have for minor children and identify relationship between needs and ability to afford.
2. Identify in general terms, what support means.
3. Identify three consequences for parents who do not provide support.
4. Identify childrens' responsibilities to parents and at least one consequence to a delinquent child.
5. Identify one consequence of running away.
6. Identify the conditions and limitations of parents using physical punishment.
7. Identify legal rights to a child's earnings and how this differs from gifts or proceeds of a will.
8. Identify conditions of a minor's medical care without parent's consent.
9. Define emancipation and identify consequences of partial or full emancipation.
10. Identify at least three preconditions to acquiring a driver's license.
11. Identify at least one major function of a title card.
12. Identify at least three ways of illegally modifying a car.
13. Define meaning and identify consequences of open bottle law and implied consent law.
14. Identify a driver's legal responsibilities if involved in an accident.

15. Identify at least two consequences of driving and owning a car without insurance.

16. Identify two illegal ways of hitchhiking.

17. Identify the local rules for owning and using bicycles.

18. Identify at least two restrictions on a minor's employment.

19. Define guns and identify at least two restrictions on a minor's use of guns.

20. Identify at least two exceptions when minors do not need hunting and fishing licenses.

21. Identify seller and buyer responsibilities for movies and periodicals as they relate to minors.

22. Identify the local curfew regulations and punishments for violation.

II. HOME

A. Parents and Children

WHAT ARE MY PARENTS' DUTIES AND MY DUTIES?

In general, parents have a duty to provide their minor children with support, education, and protection and the children have a duty to render obedience and services to their parents. (Miller v. Monsen, 228 Minn. 400, 37 N.W. 2d 543 (1949)).

1. Support & Education

WHAT DOES MY PARENTS' DUTY TO SUPPORT ME MEAN?

In general, they must provide you with necessary shelter, food, medical care, and education. Of course, they don't have to buy you anything that is very expensive; they simply have to give you those things that you really need and that they can afford to provide. (Minn. Stat. Sec. 260.221)

WHAT DOES MY PARENTS' DUTY TO EDUCATE AND PROTECT ME MEAN?

This does not just mean that they must send you to school, but also that they must provide you with normal parental attention, care and instruction. The amount of care a parent must give depends on the age of the child; naturally, a small child requires more attention than does a teenager. However, the parents of a teenager must provide some care and must not create an atmosphere which is detrimental to the physical, mental or moral health of their children. (Minn. Stat. Sec. 260.221)

WHAT WILL HAPPEN IF MY PARENTS DON'T DO THESE THINGS?

If your parents fail to support you when they can afford to do so, if they abandon you, if they fail to care for you and protect you, or if they create an unhealthy or immoral atmosphere in your home, the juvenile court can terminate your parents' rights and take custody away from them. (Minn. Stat. Sec. 260.221) The juvenile court could say that you were "neglected" or "dependent" and:

1. leave you in your own home under the supervision of the county welfare board or a child-placing agency, or
2. transfer legal custody to a child-placing agency or the county welfare board, or
3. order your parents to provide any special care or treatment you may need. (Minn. Stat. Sec. 260.191)

CAN MY PARENTS BE ARRESTED IF THEY DON'T SUPPORT ME?

If you are under 16 and are needy it is a misdemeanor, punishable by 90 days in jail or a fine of $300, if your parents can afford to support you and intentionally fail to do so. If the non-support continues for more than 90 days, the parent is guilty of a felony and could be put in prison for five years. (Minn. Stat. Sec. 609.375)

2. Obedience

DO I HAVE TO OBEY MY PARENTS?

Yes. If you are under 18 and if your parents can't control you or you are habitually disobedient, the juvenile court could say that you are a "delinquent child." (*Minn. Stat.* Sec. 260.015) This might mean that the judge would simply counsel you and your parents, but he might, if he thought it was necessary, put you under the supervision of a probation officer, transfer custody to a child-placing agency, the county welfare board, a county home school, a foster home, or the Minnesota Corrections Authority. (*Minn. Stat.* Sec. 260.191)

3. Running Away

WHAT CAN HAPPEN IF I RUN AWAY FROM HOME?

If you are under 18, a police officer may take you into custody immediately, without a warrant, if you have run away from your parents or if he reasonably believes that you have. (*Minn. Stat.* Sec. 260.165) No arrest warrant is necessary because this is not an arrest; the police only take you into custody to stop you from running away. (*Minn. Stat.* Sec. 260.165)

WHAT CAN THE POLICE DO WITH ME AFTER THEY PICK ME UP?

Your parents will be notified immediately and you will be released to go home with them if they agree to bring you to court in case that is necessary. However, you can be detained for 24 hours (excluding Saturdays, Sundays, and holidays) in a detention home, a foster care facility, a Minnesota Corrections Authority reception center or any other suitable place if your welfare requires it or if it is necessary for the "protection of the community." The authorities cannot detain you for more than 48 hours without the permission of the juvenile court judge. (Minn. Stat. Sec. 260.171)

WHAT IF I RUN AWAY TO ANOTHER STATE?

Your parents can still get you back. Minnesota, along with 41 other states and the District of Columbia, belongs to the "Interstate Compact on Juveniles." This means that the governments of all of these states have agreed to return runaway minors to their homes in other states. (Minn. Stat. Sec. 260.51)

HOW DOES THIS WORK?

The procedure is complicated, but usually it begins when your parents ask a court in the State of Minnesota to send a "requisition" (request) to the other state for your return. They must show the court that you are not an emancipated minor and that by running away you have endangered your own welfare or that of others. When the courts or governor of the other state get the requisition, the police there may take you into custody. The courts of that state will then decide whether the requisition is legal and, if it is, return you to Minnesota. (Minn. Stat. Sec. 260.51)

4. Physical Punishment

CAN MY PARENTS HIT ME OR PUNISH ME PHYSICALLY IF I DON'T OBEY THEM?

Yes. Parents may use reasonable force to "restrain a child" in the exercise of their lawful authority over the child. (Minn. Stat. Sec. 609.06)

WHAT DOES THIS MEAN?

The statute apparently applies to any person under 18 years old or to any high school pupil. (Pirsig, Comment, M.S.A. Sec. 609.06) It not only applies to parents and legal guardians, but also allows step-parents to use physical punishment if they have supported the child and treated him as a member of the family. (State v. Weber, 272 Minn. 243, 137 N.W. 2d 527 (1965))

HOW MUCH FORCE CAN MY PARENTS USE?

"Reasonable force" does not include so much force that you would be severely injured. The Minnesota Supreme Court has said that more than reasonable force was used when a stepfather punished a boy so severely that he caused cuts, bruises, and a concussion. (State v. Weber, 272 Minn. 243, 137 N.W. 2d 527 (1965)) If your parents really injure you they may be guilty of assault, a misdemeanor, or aggravated assault, a felony, depending on how badly you are hurt. (Minn. Stat. Secs. 609.22 and .225)

5. Earnings

IF I HAVE A JOB DO MY PARENTS HAVE A RIGHT TO MY EARNINGS?

Yes. Your parents are entitled to your "services" because they support you. (Grosovsky v. Goldenberg, 86 Minn. 378, 90 N.W. 782 (1902)) However, your parents must notify the employer that they are claiming a right to your salary or the employer can simply pay you. (Minn. Stat. Sec. 181.01) Further information on jobs can be found in Section B-5 of this chapter.

If money has been left to you by will or given to you as a gift, your parents cannot take it. Sometimes this kind of gift is set up so that your parents can use some of it for your support or education, if necessary.

6. Divorced Parents and Custody

IF MY PARENTS' MARRIAGE IS DISSOLVED, CAN I DECIDE WHICH ONE I WANT TO LIVE WITH?

The court has the power to decide custody of all minor children. Minnesota law requires the judge to follow certain rules in deciding which parent should have custody: he must consider all the facts, he must not give custody to the mother or father simply because of their sex, and he must make the decision that is in the best interests of the child. (Minn. Stat. Sec. 518.17) In the case of older children the court will often allow the child to live with the parent he prefers. In one case the Minnesota Supreme Court said that even the opinion of a nine-year-old child was very important. (See Aske v. Aske, 233 Minn. 540, 47 N.W. 2d 417 (1951); State ex rel. Waslie v. Waslie, 274 Minn. 564, 143 N.W. 2d 634 (1966), 277 Minn. 446, 152 N.W. 2d 755 (1967).)

IF I LIVE WITH ONE PARENT CAN I VISIT THE OTHER PARENT?

Yes. The court may only deny visitation rights to the parent who does not have custody if it is in your best interest not to see that parent. (Minn. Stat. Sec. 518.175) This would only happen if the parent was somehow unfit; that is if he mistreated you or could cause you mental, physical or moral harm. The frequency of visits is up to the court, but again the test is what is best for you.

7. Medical Care

CAN I GET MEDICAL CARE WITHOUT MY PARENTS' CONSENT?

A minor can get certain kinds of medical care in some cases without his parents' consent; usually however, the parents' consent is required. The exceptions to the general rule are as follows:

1. A minor who is living separately from his parents and managing his money, even though his parents still support him, may consent to all kinds of medical and health care. (Minn. Stat. Sec. 144.341)
2. Any minor who has been married or who has had a child may consent to any kind of medical or other health care. (Minn. Stat. Sec. 144.342)
3. Any minor may give consent to medical care to determine the presence of or to treat pregnancy, or to treat veneral disease or problems of drug or alcohol abuse. (Minn. Stat. Sec. 144.343)
4. Emergency medical care may be given to minors if the doctor believes that the minor's health or life would be endangered by delay and contacting the parents would cause delay. (Minn. Stat. Sec. 144.344)

IF I GET MEDICAL CARE UNDER THESE RULES, WILL THE DOCTOR TELL MY PARENTS?

A doctor or other medical person may inform the minor's parents of such treatment only if the health of the patient would be seriously jeopardized if he didn't tell them. (Minn. Stat. Sec. 144.346)

8. Emancipation

WHAT IS EMANCIPATION?

Emancipation refers to the ending of the legal ties between parent and child. Minnesota law does not provide any exact definition. In general the parent gives up his right to the child's services and his right to control the child; on the other hand his duty to support the child is ended. (Taubert v. Taubert, 103 Minn. 247, 114 N.W. 763 (1908))

Emancipation does not have to be complete; it can be partial or limited. For example, the parents' right to services and control may end, but they still may have the duty to support the child. On the other hand there may be complete emancipation even though the child still lives with his parents. (Taubert v. Taubert, 103 Minn. 247, 114 N.W. 763 (1908))

WHEN DOES EMANCIPATION OCCUR?

It is difficult to tell when emancipation occurs. You are automatically emancipated when you become 18, although it can happen earlier. Parent and child don't have to have a written or oral agreement for emancipation to occur. Normally you can tell if a minor is emancipated by looking at his conduct and that of his parents. (In re Settlement of Horton, 212 Minn. 7, 2 N.W. 2d 749 (1942)) (See also Chapter IV on emancipation by marriage.)

DO MY PARENTS EVER HAVE TO SUPPORT ME AFTER I'M EMANCIPATED?

Yes. If you are ever so poor that you would have to go on welfare your parents and other close relatives could be required to support you regardless of your age or the fact that you had been emancipated. (Minn. Stat. Secs. 261.01 and 256.457)

B. Recreation

1. Driver's License

AM I ENTITLED TO A DRIVER'S LICENSE AS SOON AS I REACH LEGAL AGE?

No. As you read this section, it is best to remember that a driver's license is a privilege extended by the State to its citizens and not a right. You must qualify to be licensed to drive a motor vehicle by meeting certain requirements. Then you must obey the rules and conditions under which your license is granted, or the State has the right to revoke that privilege.

WHAT IS AN INSTRUCTION PERMIT? HOW DO I GET ONE?

If you are to learn how to drive you must be allowed to practice driving. The permit allows you to drive for a period of six months and you must have a licensed adult or your driver's training instructor in the seat beside you. (If you are 15, you can drive only with your driver's training instructor or your parents.) To get a permit you must:

1. Fill out an application blank.
2. Have the application signed by one of your parents.
3. Pay a fee.
4. Prove that you are 15 and enrolled in an approved behind-the-wheel driver's education course, or that you are between 16 and 18 and have taken such a course and passed it, or that you are over 18.
5. Pass an eye test.
6. Pass a test to show that you can read and understand traffic signs and that you know the traffic laws.
7. Have a color picture of yourself taken for your permit. (*Minn. Stat.* Secs. 171.05, .06, .13)

HOW CAN I GET A REGULAR DRIVER'S LICENSE?

1. Fill out an application.
2. Pay the required fee.
3. Have a color picture taken for your license.
4. Prove that you are 16 and have successfully completed an approved driver education course, or that you are 18.

5. Pass an eye test.
6. Pass a test showing that you can read and understand highway signs and that you know the traffic laws. (This is not necessary if you have a valid instruction permit.)
7. Pass a driving test showing that you can control a car or a motorcycle properly.
8. Take any other physical or mental test that the Minnesota Commissioner of Public Safety finds necessary to decide whether you would be a safe driver. (Minn. Stat. Secs. 171.04, .06, and .13)

ARE THERE ANY OTHER KINDS OF LICENSES?

A person between 15 and 16 may be issued a "restricted" license for farm work so that he may help his parents. He may only drive close to the farm and only during the day. Other restricted licenses may be given to people who have a physical problem. If your license requires you to wear eyeglasses when driving, it is illegal to disobey this restriction. (Minn. Stat. Secs. 171.041, .09)

DO I NEED A SPECIAL LICENSE TO DRIVE A MOTORCYCLE?

Your license to drive a car will be marked to show that you may also drive a motorcycle. When you take your driving test, the examiner will give you another test to see if you can drive a motorcycle skillfully.

(*Minn. Stat.* Sec. 171.13)

DO I NEED A SPECIAL LICENSE TO DRIVE A MOTORBOAT?

No person under 13 may operate a motorboat of more than 24 horsepower unless there is a person over 18 in the boat. A teenager over 13 but under 18 must obtain a watercraft operator's permit to operate such a boat without an adult present. There is an educational course and a written test required to obtain a permit. The permit may be revoked for certain violations of watercraft safety rules. (*Minn. Stat.* Secs. 361.055, .041 and .22)

WHAT SHOULD I DO IF I LOSE MY LICENSE?

You must prove that you have lost it, fill out a form, and pay a fee. You will then get a new "duplicate" license. You must also apply for a duplicate license if your old license becomes so worn that it is impossible to read. (*Minn. Stat.* Sec. 171.10)

WHAT SHOULD I DO IF I MOVE?

Within 30 days after moving you must apply for a duplicate license, turn in your old license, and pay a fee. You must also do this if you change your name - when a girl gets married, for example. (*Minn. Stat.* Sec. 171.11)

WHAT ARE THE LIMITS ON THE USE OF MY DRIVER'S LICENSE?

It is illegal to:

1. Possess a canceled, revoked, suspended, fictitious, or altered license.
2. Lend your license to anyone else.
3. Borrow anyone's license and use it as your own.
4. Change or alter your license or make a counterfeit license. (Minn. Stat. Sec. 171.22)

WHAT WILL HAPPEN IF I DO ANY OF THESE THINGS?

Violations of the above rules are treated as misdemeanors, and you would have to appear in Juvenile Traffic Court if you are under 18. See Section B of Chapter V on the Juvenile Court. If you are 18 or over, you would go to Adult Traffic Court. (Minn. Stat. Sec. 260.193)

WHAT CAN HAPPEN IF I TAKE A FRIEND'S DRIVING TEST OR WRITTEN EXAM FOR HIM?

Both of you have committed a misdemeanor. You would have to appear in Juvenile Traffic Court. Again, consult the Juvenile Court section. (Minn. Stat. Secs. 171.22 and 260.93)

WHAT CAN HAPPEN IF I DRIVE WITHOUT A LICENSE?

This is illegal. Again, you would have to appear in Juvenile

Traffic Court. (Minn. Stat. Secs. 171.04, 260.193)

2. Motor Vehicles

WHAT IS A MOTOR VEHICLE?

A motor vehicle is any self-propelled vehicle that can carry people or property. In other words, motorcycles, scooters, mini-bikes, go-carts and similar small vehicles must follow the same rules as automobiles. (Minn. Stat. Secs. 168.011, Subd.4 and 169.01, Subd. 3)

CAN I DRIVE MY MINI-BIKE ON THE STREETS?

Not unless it is registered. This means that you must apply for license plates and pay a tax. (Minn. Stat. Secs. 168.012 and 168.029) Violation is a misdemeanor. (Minn. Stat. Sec. 168.36) The bike must also have proper seats, handlebars, foot rests, horns and other equipment. (Minn. Stat. Sec. 169.974) Many mini-bikes don't have this kind of equipment. If the bike can't travel at speeds over 25 miles per hour, it can't be driven on the streets without a large orange, triangular, slow-moving vehicle emblem. (Minn. Stat. Sec. 169.522)

CAN A MINOR OWN A MOTOR VEHICLE?

A person under 18 can own an automobile or truck only if he is 17 and has taken driver's training, if he is 17 and a high school graduate, or if he is employed, emancipated and has a driver's license. It is a misdemeanor to buy an automobile or truck if you do not fit within these descriptions, and it is also a misdemeanor for the seller to sell to you. (Minn. Stat. Sec. 168.101) There is no age limit for ownership of other motor vehicles.

WHAT IS A TITLE CARD?

A title card is an official form used by the Minnesota Department of Motor Vehicles for keeping records of motor vehicles and their owners. Whenever a car is sold, the buyer and seller must send their names, addresses, the serial number of the vehicle and other information to the department so that a new title card can be issued. When you buy a car it is very important to have the title changed so that you can later prove that you own the car. It is also important to transfer title when you sell your car so that you will not be sued if the buyer should have an accident. Unless you comply with these rules, the seller remains the owner of the car for all legal purposes. (Minn. Stat. Chapter 168A)

IS IT ILLEGAL TO GET RID OF A CAR THAT DOESN'T RUN BY LEAVING IT ON THE STREET?

Yes. This is abandoning a motor vehicle and is a misdemeanor. In fact, it is a misdemeanor to leave your car in one place on public property illegally for more than 48 hours even if it is in running condition. (Minn. Stat. Secs. 168B.02 and .03) If you abandon a vehicle the authorities can take the car away. After giving you notice if the car is new, and without notice if the car is more than 7 years old, they may sell it at a public auction 15 days after notifying you. The state is entitled to the cost of the tow and storage and if you do not claim the remainder of the proceeds within 90 days, they put it in the state treasury. (Minn. Stat. Secs. 168B.04 - .08) This is a new law which was enacted in 1971 to protect the environment. (Minn. Stat. Sec. 168B.01)

ARE THERE ANY SPECIAL TRAFFIC LAWS FOR MINORS?

Yes. A person under 17 may not drive between midnight and five o'clock in the morning unless he is with an adult or there is an emergency that makes it necessary for him to drive. (Minn. Stat. Sec. 169.131) If you violate this rule, your license may be suspended for 30 days for the first offense, 60 days for the second offense. After this, on a third or subsequent offense, your license may be revoked until your 17th birthday. (Minn. Stat. Sec. 169.132)

CAN I GET INTO TROUBLE IF I CUSTOMIZE MY CAR WITH HEADERS, GLASS PACK MUFFLERS, SPOTLIGHTS, HEAVY REAR SPRINGS AND SIMILAR EQUIPMENT?

All of these items are probably illegal. The law requires normal mufflers and prohibits cut-outs, by-passes and similar devices. (Minn. Stat. Sec. 169.69) There is also a legal limit on the amount of noise a vehicle can make, regardless of the kind of muffler it has, and the owner is responsible for reducing the noise level to comply with the law. (*Minn. Stat.* Secs. 169.691 and .692) It is also illegal to put such stiff rear springs on your car that the middle of the rear bumper is more than 20 inches above the ground. (*Minn. Stat.* Sec. 169.73) Most spotlights, flashing lights and colored lights are also forbidden. (*Minn. Stat.* Sec. 168.64) So are horns which make any sounds other than those normally made by a horn. (*Minn. Stat.* Sec. 169.68) Violation of these rules is a petty misdemeanor. (*Minn. Stat.* Sec. 169.89)

CAN I GET A TICKET FOR AN EQUIPMENT VIOLATION EVEN IF MY LIGHTS JUST STOPPED WORKING AND I DIDN'T KNOW ABOUT IT?

Yes. The law requires certain equipment on all cars operated on the road and makes it illegal to drive without it; it is not necessary that you know that the equipment is faulty. If your lights had just burned out, however, a policeman would probably only give you a warning or "fix-it" ticket.

WHAT IS THE "OPEN BOTTLE" LAW?

This is a statute which makes it a misdemeanor to have an open bottle or can of hard liquor or beer in a car on the street. Any opened container must be kept in the trunk. You are breaking the law even if the container is in the glove compartment or if the person with the open bottle is a passenger. (Minn. Stat. Sec. 169.122)

WHAT IS THE "IMPLIED CONSENT LAW"?

This law says that if you drive a motor vehicle you have agreed to have your blood, breath, or urine tested under certain circumstances to determine whether you are driving while drunk. If a police officer has "reasonable grounds" to believe that you were driving while under the influence of alcohol, he can ask you to take a test if he has arrested you for drunk driving or if you have been involved in an accident. If you refuse to take a test, the police can't force you to do it, but your driver's license will be revoked for six months. (Minn. Stat. Sec. 169.123)

WHAT IS THE "BASIC SPEED LAW"?

This law simply says that you may not drive faster than is "reasonable and prudent" under existing conditions regardless of any specific speed limit. It also says that you shall drive as slow as is necessary to avoid hitting a pedestrian or other vehicle that is also obeying the law. This means that you must drive slower than the posted speed limit if the roads are slippery or snowy or if there are any other conditions that might make it dangerous to go faster. If the speed limit is posted in a municipality it is the legal maximum; in other than a municipality the posted limit is that legally presumed to be safe and reasonable.

If you are arrested for speeding outside of a municipality, the fact that you were driving faster than the posted limit would be evidence against you and you would have to prove that it was safe to drive as fast as you did. (Minn. Stat. Sec. 169.14 (4) and (5))

DO I HAVE TO SIGN A TRAFFIC TICKET EVEN IF I'M NOT GUILTY?

Yes. When you sign a traffic ticket you do not admit that you are guilty. Your signature only means that you promise to appear in traffic court. If you refuse to sign, the police officer cannot release you and you will be taken into custody immediately. (Minn. Stat. Sec. 169.91)

WHAT ARE THE "RULES OF THE ROAD"?

These are all the laws that describe the way in which automobiles and other motor vehicles may be driven. They govern speed, traffic signals right-of-way and many other matters. There are too many of these laws to describe here. Copies of the rules may be obtained from the Department of Motor Vehicles. You must know these rules to get a driver's license.

WHAT SHOULD I DO IF I HAVE AN AUTOMOBILE ACCIDENT?

You must stop immediately at the scene of the accident or as close as you can without blocking traffic. You are required by the law to stop even if the damage done is very slight. If anyone is injured in the accident you must give first aid and call the police. If there is any damage to property or any injury you must give the other driver your name and address and the registration number of your automobile. If you damage a parked car or some other kind of property you must attempt to find the owner and notify him. Failure to stop and do these things is a misdemeanor and you will not be given a ticket, but actually taken into custody by the police if you are caught. (Minn. Stat. Secs. 169.09 and .91) If the accident causes death, personal injury or property damage of $100 or more you must also fill out a written accident report and submit it to the Minnesota Commissioner of Public Safety. If you fail to do so it is a misdemeanor and your driver's license may be suspended. (Minn. Stat. Secs. 169.09 and 170.24)

DO I HAVE TO BUY AUTOMOBILE INSURANCE?

Automobile insurance is not compulsory in Minnesota, but we do have what is known as a safety responsibility law. (Minn. Stat. Chapter 170) It provides that if you have an accident and hurt another person or cause damage to property your driver's license can be suspended unless you have automobile liability insurance, pay for the damage or give the Commissioner of Public Safety money or a bond to keep until a court decides if you will have to pay for the other person's damages. (Minn. Stat. Sec. 170.25) If you aren't insured and can't pay or put up a bond, you will not get your license back for at least 13 months after the accident, unless the other person admits that you weren't at fault or unless the case is tried or settled before that time. If the other person sues you, you may not get your license back until the suit is over, and if he wins you will not get it back until you pay for his damages or agree to pay in installments. (Minn. Stat. Secs. 170.26 and .27) After January 1, 1975, Minnesota's new no-fault insurance law will make it a misdemeanor to own a car without having certain basic insurance coverage or to drive any car knowing it has no such coverage. Your license can be suspended at least six months and if you own the car your auto registration could be revoked for the same period. In any case, you would also be liable for the injuries you cause without limitation unlike coverage under no-fault. These rules will supersede the rules found now in Minn. Stat. Chapter 170.

DOES THIS MEAN THAT MY LICENSE CAN BE SUSPENDED EVEN IF THE ACCIDENT WASN'T MY FAULT?

Yes. However, your license can't be suspended if your car was legally stopped or parked at the time of the accident. If you lend your car to another person and he causes an accident your license will be suspended just as if you were driving yourself. (Minn. Stat. Secs. 170.25 and .26) The United States Supreme Court has decided that the State can't suspend your license under a law like the one Minnesota has unless there is a reasonable possibility that you or the person driving your car was at fault and would have to pay damages to the other person. The department of public safety must give you a hearing to decide if this is the case and you have the right to present evidence to show that the accident was caused by the other driver. (Bell v. Burson, 402 U.S. 535 (1971))

DON'T SOME PEOPLE HAVE TO BUY INSURANCE?

A few people are required to have insurance to keep their driver's licenses. If your license has been revoked because of too many traffic violations you cannot get it back unless you buy insurance or post a bond. If your record is good for three years, you will no longer have to prove that you have coverage or the ability to pay for damages. (Minn. Stat. Secs. 170.36 and 170.48)

3. Hitchhiking & Pedestrians

WHAT IS HITCHHIKING?

Hitchhiking is asking the driver of a motor vehicle for a ride. (It could be a car, motor scooter, motorcycle, etc.) It is hitchhiking whether you use your thumb, knock on car windows or simply ask the driver.

IS IT AGAINST THE LAW TO HITCHHIKE?

No. It is not against the law to hitchhike, but you must obey three rules:

1. You may not hitchhike while standing in the "roadway." In most areas this means that both feet should be on the curb. If there is no curb, you should stand well back off the shoulder of the road, the area beyond the edge of the road.
2. You may not hitchhike on "freeways." (Minn. Stat. Sec. 169.305) (In effect by order of the highway commissioner.)
3. You may not hitchhike in such a way that you block the road, interfere with traffic or make the road dangerous for others.

(Minn. Stat. Sec. 169.22, Mpls. Ord. Code Sec. 408.070, St. Paul Leg. Code Sec. 134.31, Minn. Stat. Sec. 609.74)

WHAT CAN HAPPEN TO ME IF I VIOLATE THESE RULES?

If you hitchhike from the roadway you might receive a traffic "ticket" and would have to go to Juvenile Court. This violation is a misdemeanor. See Section B of Chapter V on Juvenile Court. (Minn. Stat. Secs. 169.22, 260.193 and 609.74)

WHAT IS A PEDESTRIAN?

The law defines a pedestrian as "any person afoot." (Minn. Stat. Sec. 169.01 (24))

WHAT IS JAYWALKING?

Jaywalking is the popular name for crossing a street in the middle of a block or crossing against the light.

DO PEDESTRIANS HAVE TO OBEY TRAFFIC LIGHTS?

Yes. In general you must obey the signals just as an automobile must. You cannot cross on a red light or a "Don't Walk" sign. You may start to cross the road on a green light or a "Walk" sign, and if you do the drivers must give you the right-of-way. (Minn. Stat. Secs. 169.06 (5) and (6))

WHEN CAN I CROSS THE STREET IF THERE IS NO LIGHT?

You may always cross in a marked crosswalk and if you do drivers must yield the right-of-way to you. (Minn. Stat. Sec. 169.21 (2))

If you cross other than at an intersection or a marked crosswalk you must yield the right-of-way to automobiles. You may never cross in the middle of a block between two intersections which have traffic lights. (Minn. Stat. Sec. 169.21 (3)) Even if you are crossing the street illegally, the law requires drivers to be careful to avoid hitting you. (Minn. Stat. Sec. 169.21 (3))

CAN I WALK IN THE STREET?

You may not walk along or in the street or road if there are sidewalks that you could use instead. If there are no sidewalks you can walk in the road or along the shoulder. You must stay close to the left side (facing oncoming traffic) and yield the right-of-way to drivers. (Minn. Stat. Sec. 169.21 (5))

4. Bicycles

WHAT IS A BICYCLE?

The law defines a bicycle as anything which is propelled by "human power" on which a person can ride and which has either two wheels "in tandem" (one directly behind the other) at least 20 inches in diameter or has more wheels but is generally recognized as a bicycle (e.g. a bicycle with training wheels). (Minn. Stat. Sec. 169.01 (5))

DO I HAVE TO GET A LICENSE FOR MY BICYCLE?

State law does not require that a bicycle be licensed, although many people have suggested that a licensing law be passed and the fees be used to build bicycle paths. The Twin Cities and most of the other larger municipalities do have ordinances (local laws passed by local units of government) that require you to buy a license. For example, Mpls. Ord. Code Secs. 355.010 and .030. If you drive your bicycle without a license in these areas the police may impound it and fine you. Even if your bicycle is not required to be licensed it is a good idea to license it so that if it is stolen the police will know that it is yours and will be able to return it to you. One of the main reasons for licensing laws is to help identify all of the lost and stolen bicycles.

WHAT EQUIPMENT MUST I HAVE ON MY BICYCLE?

You must have:

1. A brake on at least one wheel which will allow you to make the wheel skid on dry pavement (Minn. Stat. Sec. 169.221 (6)).
2. A seat for each rider (Minn. Stat. Secs. 169.221 (2) - (3)).
3. A red reflector on the rear (Minn. Stat. Secs. 169.221 (6) - (7).
4. If the bike is ridden at night a white light on the front that can be seen 500 feet away. (Minn. Stat. Sec. 169.221 (6)).

DOES A BICYCLE HAVE TO OBEY ALL OF THE TRAFFIC LAWS?

Yes. You must obey all of the laws that the driver of an automobile must obey except those laws that would not make sense if applied to a bicycle (e.g. a law requiring a certain kind of muffler). (Minn. Stat. Sec. 169.221 (1))

WHERE CAN I RIDE A BICYCLE?

You can ride on any roads other than controlled access roads (freeways); there the speed of the other vehicles is so different from that of a bicycle that the two don't mix. (Minn. Stat. Sec. 169.305 (1)) If you do drive on the road you must ride as close to the right side of the road as possible. (This is with automobile traffic, not against it.) (Minn. Stat. Sec. 169.221 (4)) You may not ride more than two vehicles abreast on the road. (Minn. Stat. Sec. 169.221 (4))

You can ride on a sidewalk except in a business district, but if you do you must yield the right of way to pedestrians and must make a sound that the pedestrian can hear before you overtake or pass him. (Minn. Stat. Sec. 169.221 (4)) If there is a bicycle path that you can use, you must ride on it instead of on the sidewalk or in the road. (Minn. Stat. Sec. 169.221 (4))

ARE THERE BIKE PATHS IN MOST PLACES?

No. But new paths will probably be built soon. A new law requires the state planning agency to study the need for paths, how to finance them, and where to put them. The Minnesota Commissioner of Highways is required to set up standards for new paths by January 1, 1975, and other state agencies are required to cooperate in the new program. (Minn. Stat. Sec. 160.262)

WHAT OTHER LAWS SHOULD I KNOW ABOUT WHEN I RIDE A BIKE?

1. You must ride astride the seat of the bicycle while driving it.
2. You must not carry any more riders than the bike is equipped to carry (e.g. no riders on handlebars or fenders).
3. You may not hitch a ride behind an automobile or other vehicle.
4. You may not carry anything which prevents you from keeping at least one hand on the handlebars. (Minn. Stat. Sec. 169.221)

CAN I GET A TICKET IF I VIOLATE THESE RULES?

Yes. You can get a ticket for any violation of the traffic laws, whether you are driving an automobile, walking or driving a bike.

5. Employment & Wages

HOW OLD DO I HAVE TO BE TO GET A JOB?

There is no absolute minimum age limit for getting a job. However, no person may hire a child under 14 to work at any job while public schools are in session; in other words anyone under 14 is limited to summer jobs. (Minn. Stat. Sec. 181.31) No one under 14 can be hired to work in a factory, mill, workshop, or mine or to do construction or engineering work. (Minn. Stat. Sec. 181.31)

CAN OLDER TEENAGERS HAVE ANY JOB THEY WANT?

No. There are restrictions and rules about the times you can work, the types of jobs you can hold, and the total hours you can work. The rules vary depending on age and sex.

CAN I WORK DURING SCHOOL HOURS?

If you are between 14 and 16 you cannot have a job during school hours unless you meet a number of strict requirements. Your employer must obtain an employment certificate for you and keep it available to the authorities at all times. (Minn. Stat. Sec. 181.32) A certificate is issued only in rare circumstances by the superintendent of schools or chairman of the local board of education. (Minn. Stat. Sec. 181.34) Before he will issue your employer an employment certificate, the superintendent or chairman will look over your school records, your birth records, and will meet with you to be certain that you are over 14. He will also require a certificate from a doctor stating that you are in good health and able to do the work you plan to do. In addition, he will not issue the certificate unless you have completed all of the studies taught in the schools of the school district and can correctly read and write simple sentences. (Minn. Stat. Sec. 181.34) These rules were established because everyone under 16 is supposed to attend school and the law is set up to prevent a job from interfering with school.

IF I'M UNDER 16 CAN I WORK DURING THE SUMMER OR IN THE EVENINGS OR ON WEEKENDS DURING THE SCHOOL YEAR WITHOUT GETTING AN EMPLOYMENT CERTIFICATE?

Yes, but there are restrictions on the hours you can work. No one under 16 can be employed for more than 40 hours in one week or more than 8 hours in one day. Also you cannot start work before 7:00 a.m., or stay after 9:30 p.m. (Minn. Stat. Sec. 181.37)

ARE THERE SOME KINDS OF JOBS THAT I CAN'T GET AT ALL SIMPLY BECAUSE I'M A MINOR?

Yes. The jobs you can hold differ according to your age and whether you are a girl or a boy. In general, no one under 18 may work:

1. In a beer parlor or any room where 3.2 beer is sold. (Minn. Stat. Sec. 181.49; Op. Atty. Gen. 217-F-3, December 15, 1955)
2. In any place where drinks are sold for consumption on the premises, except as a musician, or as a dishwasher or busboy in a resturant or motel which serves food as well as alcoholic drinks. (Minn. Stat. Sec. 340.14)
3. As a telegraph messenger during the hours between 9:00 p.m. and 5:00 a.m. (Minn. Stat. Sec. 181.41)
4. In any job dangerous to life, health, or morals. (Minn. Stat. Sec. 181.40)
5. As a trapeze artist, tight rope walker, or any similar job. "(Minn. Stat. Sec. 181.40)
6. Selling papers or magazines on the streets or in public places, shining shoes, or "peddling." (This rules applies only to girls - boys may have these jobs, although they must get employment certificates, badges, and permits if they are under 16.) (Minn. Stat. Sec. 181.43) Selling newspapers on the streets does not include being a "paper boy." (Minn. Stat. Sec. 181.48)

7. In a walkathon, dance marathon, or similar contest. (Minn. Stat. Sec. 181.49)

8. As a hired driver of a passenger-carrying vehicle. (Minn. Stat. Sec. 171.322)

In general no one under 16 may work:

1. With various kinds of heavy, dangerous machinery; the types are listed in the statute in great detail. (Minn. Stat. Secs. 182.09 and 181.40)

2. As a pin boy in a bowling alley. (Minn. Stat. Secs. 182.09 and 181.40)

3. As an elevator operator. (Minn. Stat. Secs. 182.09 and and 181.40)

4. With acids or in the manufacture of paints. (Minn. Stat. Secs. 182.09 and 181.40)

5. At a job which requires the employee to stand constantly. (Minn. Stat. Sec. 181.40) (This rule only applies to girls.)

6. In a professional theatrical exhibition without a permit or without the permission of the department of labor and industry. (Minn. Stat. Sec. 181.40)

7. In any occupation dangerous to life, health, or morals. (Minn. Stat. Secs. 182.09 and 181.40)

CAN I GET IN TROUBLE IF I WORK AT ONE OF THESE JOBS ANYWAY?

Any teenager who persistently violates the rules regarding forbidden jobs may be "delinquent." (Minn. Stat. Sec. 181.42) This statute has never been used. How juvenile court treats delinquent teenagers is discussed in Chapter V, Section B.

CAN THE PERSON WHO HIRES ME FOR ONE OF THESE JOBS GET IN TROUBLE?

Yes. It is a misdemeanor for anyone to hire a minor in violation of these rules. (Minn. Stat. Secs. 340.035, 181.50, 181.38 and .43)

CAN MY PARENTS GET IN TROUBLE IF THEY LET ME WORK AT ONE OF THESE JOBS?

Yes. The law provides that anyone who has custody or control of a minor and permits him to engage in such employment is guilty of a misdemeanor and is treated the same as the employer. (Minn. Stat. Secs. 181.38 and 181.50)

WHAT IS THE MINIMUM WAGE?

Both the federal and state government establish minimum wages. The state minimum wage is $1.80 per hour. (Minn. Stat. Sec. 177.24) The federal minimum wage is $1.60 per hour (29 U.S.C. Sec. 206). Congress has sent a bill to the President to raise this hourly rate. For teenagers, the state minimum wage will be less than the $1.80 per hour. The Minnesota Commissioner of Labor and Industry will set special rules for people under 18. These minimum wage rates will not be more than 90 percent of the rate for adults so they will probably be about $1.60 per hour. (Minn. Stat. Sec. 177.28 (3)) If you have a job as a sales person, or a job where you receive tips, the minimum wage does not apply and there are complicated rules about how much you can get. (Minn. Stat. Sec. 177.28 (3))

In addition, an adult is entitled to one and a half-times the regular rate at which he or she is employed for a work week longer than 48 hours, again with certain types of employment excepted. (Minn. Stat. Sec. 177.25) However, you will remember the rule that no one under 16 can be employed for more than 40 hours a week. (Minn. Stat. Sec. 181.37) For those between 16 and 18, you would be entitled to a rate at least equal to one and a half times the special minimum wage rate set by the commissioner for those under 18.

MUST I BE PAID THE MINIMUM WAGE?

Yes. All wage orders of the Minnesota Minimum Wage Commission apply to minors. (Minn. Stat. Secs. 177.07 and .075) However, minors who work as apprentice printers for certain newspapers and students working part time in the school district's hot lunch program need not be paid the minimum wage. (Minn. Stat. Secs. 177.13 and 177.20)

WHAT HAPPENS IF THE EMPLOYER DOESN'T PAY ME MY WAGES?

If your employer fails to pay your wages within 24 hours after they are due, and after you request it, you can collect one extra day's wage for each day he fails to pay you. (Minn. Stat. Secs. 181.11 and .13) The law also sets up special rules for deciding how much the employer owes you if you disagree over the amount of wages the employer owes you. (Minn. Stat. Sec. 181.14)

6. Guns & Weapons

WHAT IS A DANGEROUS WEAPON?

The law says that a dangerous weapon is any firearm (gun) or anything else which is made to hurt people or used to hurt people and which could kill or seriously injure someone. (Minn. Stat. Sec. 609.02 (6))

IS IT OK TO SCARE PEOPLE WITH A GUN?

No. It is a misdemeanor to point a gun at another person on purpose even if the gun is unloaded.

CAN MINORS OWN GUNS?

There is no state law that says that minors cannot own guns but it is a misdemeanor for anyone to furnish a gun or even an air gun to a minor under 14 without his parents' consent, and it is also a misdemeanor for a parent to allow a minor under 14 to use a gun or air gun except when he is with his parents. If you live in a city or town it is a misdemeanor for anyone to sell you or give you a gun or air gun until you are 18, without written consent of your parents, guardian, police department or magistrate. (Minn. Stat. Sec. 609.66) Some cities and towns have their own ordinances which say that no one under 18 may own a gun. Minneapolis and St. Paul have rules like this. (Mpls. Ord. Code Sec. 877.020; St. Paul Leg. Code Sec. 426.01)

CAN I CARRY A GUN FOR PROTECTION?

Usually not, even if you can legally own a gun. State law says that it is a misdemeanor to have any dangerous weapon if you intend to use it illegally. (Minn. Stat. Sec. 609.66 (5))

Many cities and towns have ordinances which say that it is illegal to carry a concealed weapon. This means that you may not wear a gun, knife or any other dangerous weapon under your coat or other clothes. Generally, you cannot carry a weapon in your car or carry it in a public place even if it is visible, unless it is a hunting gun that is unloaded and broken down. (Mpls. Ord. Code Secs. 877.020 and .030; St. Paul Leg. Code Sec. 425.01)

CAN A MINOR OWN A SWITCHBLADE?

No. It is a misdemeanor for anyone, whatever his age, to own a switchblade. (Minn. Stat. Sec. 609.66 (4))

7. Hunting & Fishing

DO I HAVE TO HAVE A LICENSE TO FISH OR HUNT?

Usually you must have a license to take game or to fish or to harvest wild rice, but there are some exceptions. You must often get different licenses to take different animals. (Minn. Stat. Sec. 98.45)

WHEN CAN I HUNT OR FISH WITHOUT A LICENSE?

You do not need a license:

1. To kill unprotected animals, usually predators like wolves, bobcats, or lynx or undesirable animals such as skunks. (Minn. Stat. Sec. 100.26)
2. To fish and to trap furbearing animals, except beaver and otter, if you are under 16 and a Minnesota resident. (Minn. Stat. Sec. 98.47)
3. To take small game (anything but deer, moose, elk, bear, or caribou) if you are under 13 and a Minnesota resident. (Minn. Stat. Sec. 98.47)
4. To take small game on land that you or your family owns. (Minn. Stat. Sec. 98.47)

HOW OLD DO I HAVE TO BE TO GET A HUNTING LICENSE?

No hunting licenses will be issued to persons under 16 unless they have a valid firearm safety permit. Teenagers between 13 and 16 must have such a permit to take small game even though they do not need a license. (Minn. Stat. Sec. 98.47)

HOW DO I GET A CERTIFICATE?

You must take a special firearms instruction course approved by the Minnesota Commissioner of Natural Resources. (Minn. Stat. Sec. 97.81) The courses are to teach safety in hunting and the safe use of firearms.

HOW OLD DO I HAVE TO BE TO GET A CERTIFICATE?

You must be at least 12, although you can start taking the course when you are 11 and graduate when you are 12. (Minn. Stat. Sec. 97.83)

CAN I HUNT WITH A GUN WITHOUT A CERTIFICATE?

It is illegal for you to hunt with a gun if you are under 16 unless your parents are with you or you have a certificate. If you have a certificate you can hunt without your parents and use your gun if you are over 14. (Minn. Stat. Sec. 97.83)

ARE THERE ANY OTHER AGE REQUIREMENTS THAT I SHOULD KNOW ABOUT?

Yes. It is illegal for anyone under 14 to hunt unless his parents are with him. (Minn. Stat. Sec. 98.47)

WHAT IS "HUNTING SEASON"?

Hunting season is a period of time during the year when the law allows hunters to kill certain animals. There are different seasons for different kinds of animals. Some seasons are very short if the animals are not very numerous. (Minn. Stat. Sec. 100.271)

WHAT ARE LIMITS?

Because the number of some animals is limited, hunters are allowed to take only a few. For example, each deer hunter can take only one deer. This allows more people to hunt and controls the number of animals that are taken. (Minn. Stat. Sec. 100.28)

ARE THERE ANY OTHER RULES I SHOULD KNOW ABOUT?

It is illegal to:

1. Shoot wild animals from a car or snowmobile.
2. Hunt with a firearm or bow and arrow while intoxicated or under the influence of narcotics.
3. Hunt deer with explosive or poisonous arrows.
4. Hunt deer unless you are wearing bright red or orange on your hat and coat.
5. Kill animals within 500 feet of an occupied building.
6. Kill animals by running over them with a snowmobile or automobile.

7. Find deer or other animals by shining your headlights or other light at them. (Minn. Stat. Sec. 100.29)

WHAT ARE THE PENALTIES FOR VIOLATING THESE RULES?

Most violations are misdemeanors, but some are gross misdemeanors. It is a gross misdemeanor to hunt with a weapon while intoxicated or to shine deer. (Minn. Stat. Sec. 97.55) Your hunting or fishing license is immediately revoked in most cases. (Minn. Stat. Sec. 98.52) The conservation officers may confiscate and sell any game or fish illegally taken, and all of your equipment. For serious offenses, such as shining deer, they may confiscate your automobile or boat. (Minn. Stat. Sec. 97.50)

IS THERE ANYTHING ELSE THAT I SHOULD KNOW?

This is just a brief summary of the hunting and fishing laws. They are very complicated. If you plan to hunt or fish you should first apply for a license and obtain more detailed information from the Minnesota Department of Natural Resources, the county auditor, or any authorized agent of the Department of Natural Resources. (Minn. Stat. Sec. 98.50)

8. Movies and Publications

IS IT ILLEGAL FOR ME TO GO TO AN X-RATED MOVIE IF I'M UNDER 18?

No. But if you are under 18, it is illegal for the theater to sell you a ticket to any movie which "depicts nudity, sexual conduct, or sadomasochistic abuse and is harmful to minors." (Minn. Stat. Secs. 617.292 and .294) This is a much stricter rule than the "obscenity" rules which limit the movies and books which may be sold to adults; it probably includes most X-rated movies and some R-rated movies.

Since the theater owner could be convicted of a gross misdemeanor, and since the owner could defend a criminal charge by showing that he complied with the motion picture rating system, most owners carefully check I.D.'s to be sure that persons admitted to R- and X-rated movies are old enough to get in according to the rating code. (Minn. Stat. Secs. 617.296 and .297)

CAN I BUY PLAYBOY OR PLAYGIRL?

It is not a crime for you to buy it but it may be a gross misdemeanor for someone to sell it to you. The standard for magazines is the same as for movies: it is illegal to sell books or magazines to persons under 18 if they "depict nudity, sexual conduct, or sadomasochistic abuse and are harmful to minors." (Minn. Stat. Sec. 617.293) Playboy and similar magazines may fit within this definition.

9. Pool Halls & Gambling

IS IT ILLEGAL FOR ME TO PLAY POOL IN A POOL HALL?

No. In the past it was illegal for persons under 18 to enter a pool hall unless accompanied by their parents, but that law was repealed in 1963, and it is now legal to play pool in pool halls. (former Minn. Stat. Secs. 617.61, .62 and .63)

IS IT ILLEGAL FOR MINORS TO GAMBLE?

Yes. It is also illegal for adults to gamble. (Minn. Stat. Secs. 609.75, .755 and .76)

IS IT ILLEGAL FOR MINORS TO PLAY PINBALL MACHINES?

No. It is legal to play pinball machines if no awards or prizes other than replays are given for successful playing. If there are other prizes, the pinball machine would be a gambling device and it would be illegal for both minors and adults to play it. (McNeice v. City of Minneapolis, 250 Minn. 142, 84 N.W. 2d 232 (1957))

10. Public Dances

IS IT LEGAL FOR ME TO GO TO PUBLIC DANCES?

No teenager under 16 can attend a public dance unless accompanied by a parent, and teenagers over 16 and under 18 may attend only with the written consent of their parents. (Minn. Stat. Sec. 624.49) This law does not apply to school dances, church dances, or private parties; it only applies to a dance where admission is charged and where the general public may attend. (Minn. Stat. Sec. 624.42)

11. Curfew

WHAT IS A CURFEW?

A curfew is some type of rule which says that people may not be on the street or in public places after a certain time of night. Usually, it is a law or ordinance requiring teenagers to be home late at night, but if there is a riot or other civil disturbance, the authorities sometimes set a curfew for all people. Parents and dormitories often require young people to return at a certain time, and this may be called a curfew too, even though it is not a law.

DOES MINNESOTA HAVE A CURFEW LAW FOR TEENAGERS?

No. There is no state law setting a curfew, but many cities have curfew ordinances.

WHAT DO THESE ORDINANCES SAY?

The St. Paul and Minneapolis ordinances are probably a lot like all of the others, although the details may be different in your city. The St. Paul ordinance applies to all teenagers under 16 and says that you may not "loiter, idle, wander, stroll or play" in the streets or other public places after 10:00 p.m. or before 5:00 a.m. It also says that it is illegal for your parents to allow you to do these things. (St. Paul Leg. Code Secs. 460.01 and .02)

The Minneapolis ordinance says that teenagers under 16 cannot "loaf, loiter, or idle" in public places after 9:30 p.m. or before 5:00 a.m. For teenagers between 16 and 18 the hours are 12:01 a.m. and 5:00 a.m. It also says that parents may not knowingly or carelessly allow their children to stay out after curfew. It also says that no place of business may let you stay if you are violating curfew and that if you refuse to leave they must call the police. (Mpls. Ord. Code Secs. 878.020, .30, .40 and .050)

WHAT IF I HAVE A GOOD REASON TO BE OUT AFTER CURFEW?

Curfews are designed to keep teenagers from "hanging around" and not to prevent them from doing things that they really need to do. That is why they use words like "loafing" and "idling." Neither of the ordinances applies if you are with an adult. (St. Paul Leg. Code Sec. 460.01; Mpls. Ord. Code Sec. 878.030) The St. Paul ordinance also makes an exception if you are on an errand for your parents, if you are working or if there is an emergency. (St. Paul Leg. Code Sec. 460.01)

12. Fireworks

IS IT ILLEGAL TO SHOOT OFF FIREWORKS?

Yes. It is illegal for anyone to sell, use or explode any fireworks. (Minn. Stat. Sec. 624.21) Cap pistols are not considered fireworks, but small firecrackers, cherry bombs, and sparklers are included. (Minn. Stat. Sec. 624.20) Naturally, public displays are allowed; these rules only apply to unauthorized use of fireworks. (Minn. Stat. Sec. 624.22) If you violate this law you can be convicted of a misdemeanor and the police or fire marshal may seize the fireworks. (Minn. Stat. Secs. 624.24 and .25)

13. Dogs

DO I HAVE TO HAVE A LICENSE FOR MY DOG?

This depends upon where you live. State law does not require you to license your dog but state law allows counties to pass ordinances that require licenses. These ordinances usually only apply to rural areas and the fees for licenses are kept in a fund to pay for farm animals injured or killed by dogs in the county. (Minn. Stat. Secs. 347.08 and .21) County ordinances apply outside municipal limits only, if the municipality regulates dogs. (Minn. Stat. Sec. 347.08 (1))

DOES THIS MEAN I DON'T NEED TO GET A LICENSE IF I LIVE IN THE CITY?

No. Most municipalities require you to obtain a license for your dog. Both Minneapolis and St. Paul require you to buy a license for your dog and to renew it each year. You will receive a metal tag which your dog must wear on his collar at all times. (Mpls. Ord. Code Secs. 810.010, .030 and .070; St. Paul Leg. Code Secs. 329.02, .03 and .07)

CAN I TAKE MY DOG OUT FOR A WALK WITHOUT A LEASH?

Again, state law does not require that dogs be leashed, but some of the larger cities have ordinances which do require it. Both St. Paul and Minneapolis have ordinaces which say that all dogs must be on a leash if not in a fenced area. The Minneapolis ordinance also requires the owner to clean up and dispose of solid wastes left behind by the dog when it is out on its leash. (Mpls. Ord. Code Sec. 810.80; St. Paul Leg. Code Sec. 329.08)

WHAT HAPPENS IF I DON'T HAVE A LEASH OR LICENSE FOR MY DOG?

In Minneapolis and St. Paul the dog license inspector (dog catcher) will seize the dog and put him in the dog pound. To get the dog back you must pay $7.50 for a pound fee plus an additional $1.00 per day for the dog's room and board, and $3.00 for a license if the dog is unlicensed. If you do not reclaim the dog within five days he will be killed. (St. Paul Leg. Code Secs. 329.09 - .10, .13 and .15; Mpls. Ord. Code Secs. 810.020, .130 and .150 - .170)

IS THERE A LIMIT ON THE NUMBER OF DOGS I CAN OWN?

Again, there is nothing in state law. There is, however, a Minneapolis ordinance which says that you must have a permit from the Minneapolis Commissioner of Health to keep more than three dogs. (*Mpls.* *Ord.* *Code* Sec. 810.230)

CAN I GET IN TROUBLE IF MY DOG BITES SOMEONE?

Yes. If your dog attacks a person in any place where that person has a right to be, you can be sued and made to pay for the damages the dog caused. This is true even though you were not careless and did not know that the dog might bite a person; the law says you are strictly liable. (See Chapter I, Section A on the consequences of this strict liability. (*Minn.* *Stat.* Sec. 347.22))

14. Littering

IS IT ILLEGAL TO LITTER?

Yes. It is a misdemeanor to dump or throw any kind of trash, garbage, or harmful or dangerous things on the streets or highways or on private or public land along the road without its owner's consent. If you accidentally drop any litter on the highway you are required to clean it up. The second littering offense (and any additional offenses after that) carries a minimum fine of $100. The judge may order a person convicted of littering to either go to jail or to pick up litter along the highways for four to eight hours. (*Minn.* *Stat.* Secs. 169.42 and .91)

PROBLEM 1

Now that you have reviewed the chapter, think about the following problem which raises the issues in a little different context. Think about social policy that is served by these rules and try to develop your own ideas about what sort of rules should govern the relationship between parents and children.

Mr. and Mrs. Jones were members of a religious group, the teachings of which specifically forbade the rendering of medical treatment and the eating of meat. The three Jones children - Abner, age 17; Betty, age 14; and Clyde, age 10 - were brought up very strictly.

Abner, the oldest child, obtained a job stocking shelves in a local store after school only to discover that his parents kept all of his earnings and refused to allow him to spend any of his own money. Betty was not allowed to attend any social functions at school and although she frequently became ill because of a congenital heart defect, was compelled to do housework for her mother and was given no medical treatment. Clyde, the youngest child, was seriously injured in an automobile accident one day and taken in an emergency ambulance to a local hospital. His parents refused to allow him to receive a blood transfusion but the doctors in charge, in spite of the parents' protests, proceeded to administer blood which they believed was necessary to save the child's life. None of the children were allowed to eat meat and the family meals consisted of a very minimal amount of fruit and vegetables.

All three children were undernourished, thin, pale and nervous as a result of this treatment. Finally they determined to leave home. All three left; Abner going to Wisconsin to work on a farm, Betty going to live with a relative in Duluth and Clyde going to a nearby friend's house.

Mr. and Mrs. Jones found Clyde, brought him back home, and locked him in the basement for three days during which time they gave him only bread and water and told him to reflect upon his sins. At the end of the three days they soundly thrashed him and advised him never to run away again.

1. Is there any way for the parents to compel Abner to return from Wisconsin?
2. Were the parents entitled to retain Abner's earnings?
3. Can Betty compel her parents to provide her with medical care?
4. If the County Welfare Board learns of the treatment of Clyde, what steps may be taken?

5. If the children do not adhere to the parents' religious views, can they compel the parents to provide them with more or different quality food?

6. How will it be determined whether the parents will have the right to retain custody of the children?

7. If it is decided that the parents will not have that right, what will happen to the children?

PROBLEM 2

Donnie is a 15-year-old high school sophomore. He had worked full time in the greenhouse at Jackson's Nursery during Christmas vacation, and as soon as the spring gardening season began, Mr. Jackson rehired him as temporary help. Donnie was soon working in the nursery's retail store from 3:00 p.m. to 10:00 p.m. on weeknights (which necessitated his "slipping away" from school a little early some days), 6:30 a.m. to 6:00 p.m. on Saturday and 10:00 a.m. to 6:00 p.m. on Sundays.

A lawyer friend of Mr. Jackson, who also is a neighbor of Donnie's family, suggests to Mr. Jackson that he may not be employing Donnie in a legal manner. The spring gardening season being nearly over, Mr. Jackson fires Donnie.

Donnie waits three weeks for his last paycheck, which never comes through the mail. Donnie calls the nursery and is finally told by Mr. Jackson himself that because his employment was illegal, the nursery does not have to pay him. Donnie still does not have his check.

1. Was Donnie's work during the Christmas holiday legal?
2. Does Donnie need an employment certificate to work?
3. What rules has Donnie's employment at Jackson's Nursery violated?

4. Can Mr. Jackson be penalized for violation of these rules if he knows Donnie's age? If he doesn't know? How do you think this violation should be handled?

5. Are Donnie's parents also liable? If they are, how should their violation of the rules be pursued?

6. Is Donnie entitled to his last two weeks of pay? Can Mr. Jackson be compelled to pay Donnie's wages? What can Donnie do to ensure that he will receive his earnings?

TEACHER'S NOTES
CHAPTER II.

This chapter covers a wide range of topics, making it virtually impossible to write a few problems touching on all areas. However, the editors have attempted to cover each area in the Self-Quiz. The areas not covered by the problems provided by the editors may provide fertile ground for independent student projects, more about which is discussed in the Resources Section of your copy of The Student Lawyer.

Response to Self-Quiz should be as follows:

1. False (page 30)
2. True (page 29)
3. False (page 28)
4. False (pages 30 and 31)
5. False (page 31)
6. False (page 32)
7. False (pages 25 and 26)
8. False (page 26)
9. False (page 25)
10. False (page 33)
11. True (page 36)
12. False (page 34)
13. False (page 37)

14. True (page 39)
15. False (page 39)
16. True (pages 40 and 41)
17. True (pages 41 and 42)
18. True (page 43)
19. False (page 42)
20. False (page 46)
21. False (page 47)
22. True (pages 48 and 49)
23. True (pages 50 and 52)
24. False (page 53)
25. False (pages 54, 55 and 57)
26. False (pages 57 and 58)
27. False (page 59)
28. True (page 63)
29. False (pages 64 and 65)
30. False (page 66)
31. False (page 69)
32. False (page 71)

DISCUSSION OF PROBLEM 1

The questions raised by Problem 1 can be answered by reference to the first page of the chapter.

TS.

The students should discuss the fact that there is an arrangement whereby runaways can be sent from one state back to the state from which they fled.

They should be aware of the fact that the parents are entitled to retain the earnings of the minor child and that the parents have an obligation to provide the minor children with medical care. This obligation may, however, conflict with the parents' rights to raise their children in accordance with their religious principles.

The parents' right to raise the child as they see fit and to adhere to their own religious principles is not really dealt with in this material and could be the subject of further research and investigation in outside sources. The question is raised most directly with relation to the accident which injured the youngest child and the resulting transfusion of blood over the protest of the parents. This question also presents opportunities to discuss public policy and conflicting rights.

The students should be aware of the mechanics of a juvenile court determination of whether a child is dependent, neglected or delinquent and some of the material from Section B, Chapter V on the Juvenile Court should be incorporated here. The students should also be aware of the alternatives available to the Juvenile Court if it finds that the parents are not fit to have custody at the moment. Some of this material is also covered in the Juvenile Court section. The students might profit from a visit by the local juvenile judge, probation officer or others who are familiar with juvenile court proceedings.

DISCUSSION OF PROBLEM 2

This problem was designed to deal with an important area of student interest outside school: part-time employment. Hopefully, the students can be guided beyond discussion of the rules to an examination of the general policies involved in these work and wage problems.

1. As an entry into the age and time requirements, there seems to be no prohibition on a 15-year-old working full-time during a long school holiday.

2. It would appear at first glance that Donnie did not need an employment certificate, due to the after school and weekend nature of his work. However, discuss with the class the fact that he sometimes had to "slip away" during the last part of some days to make it to work on time. This may call for a work certificate - or perhaps a change of hours.

3. Students will soon figure out that Donnie was working 54 1/2 hours per week in violation of the 40 hour rule, that he was working until 10:00 p.m. weeknights in violation of the 9:30 p.m. rule, and that he had to be at work Saturdays at 6:30 a.m. in violation of the 7:00 a.m. rule. You might also discuss the violation of the spirit, if not the letter, of the law in Donnie's having to "skip" part of school to be at work by 3:00 p.m. some days. This is a natural lead-in to discussion of the public policy behind these rules.

4. It is obvious from the materials that Mr. Jackson could be charged with a misdemeanor if he knowingly hired Donnie under these conditions. Also, he could be charged if he did not know Donnie's age, if he failed to go through the procedures to check his age or failed to require a certificate of Donnie.

   Getting away from rules, it is interesting to have students discuss how courts should treat violations of this sort.

5. Again, the rules in the material state that parents can be charged also and discussion of the problem of remedy for the situation should proceed.

6. Do the violations of statutes inherent in the work completed by a minor employee release the obligation of the employer to pay for that work? There may be some room for discussion, but from the standpoint of the fundamental fairness embodied in most legal decisions, work done by a party, least in a position to know the rules should be reimbursed. Not only can Mr. Jackson be compelled to pay Donnie under this reasoning but the material states that he could be assessed a penalty for not paying after a request for it.

Chapter 3

[illegible]

[illegible]
SUSPENSION & EXPULSION
DEMONSTRATIONS & PROTEST
PHYSICAL PUNISHMENT
LOCKER SEARCHES

Jane and Tom, both 15-year-olds and close friends, decided to deface a political poster the social studies teacher has hung on the bulletin board. The teacher catches them and in a fit of anger, "kicks" them out of the classroom. The principal much later finds them wandering in the halls and, upon questioning, hears the whole story. Jane and Tom say they were protesting the partisan nature of the poster. The teacher insists they both be expelled from school.

What should the principal do?

What can he do?

Do students have a right to protest?

If so, how broad is that right?

INTRODUCTION

Everyone knows that the law requires young people to go to school. This chapter will try to explain the rules governing school attendance, the consequences of a failure to attend school and the kinds of activities within the school that may lead to undersirable consequences.

In general it might be said that the State has an obligation to furnish a free education to all of its young citizens, that people under a certain age must attend school and that their parents must allow them to attend school.

While a student is in school he is subject to reasonable discipline; if he fails to obey the rules and the offense is serious enough, or if he causes a disruption, he may be suspended for a short period of time or expelled permanently. But a student does not lose his rights simply by going to school; the school administration can't be arbitrary and unreasonable in its handling of students.

SELF-QUIZ

Consider this set of true-false questions before you read the material that follows to see whether your ideas about school and school discipline are accurate.

1. Everyone must go to school from the time that he is five until he reaches the age of 16. ____True ____False
2. If a student fails to attend school his parents can be convicted of a misdemeanor. ____True ____False
3. If a student refuses to attend school he may come under the jurisdiction of the juvenile court. ____True ____False
4. There is no longer any such thing as a truant officer in Minnesota. ____True ____False
5. Because the law requires that everybody attend school, a student may not be expelled permanently for any reason. ____True ____False
6. A student who is exercising his constitutional right of free speech may not be disciplined by the school. ____True ____False

7. Before a student is dismissed from school, he is entitled to a hearing. ____True ____False

8. A school may set reasonable standards of dress and hair style. ____True ____False

9. Suspension and expulsion are the same thing. ____True ____False

10. A teacher may never touch a student without the student's permission. ____True ____False

11. School officials can search a student's locker at any time under Minnesota law. ____True ____False

EDUCATIONAL OBJECTIVES
CHAPTER III: SCHOOL

Each student should, upon completion of this chapter, understand the rules governing compulsory school attendance and appreciate the extent of the limitations that may be imposed by the school on his rights as a citizen.

In addition, each student will be able to:

1. Identify at least two legal reasons for not attending school if the student is between the ages of seven and sixteen.
2. Define suspension and expulsion and who has legal authority to administer each.
3. Define when students may be dismissed from school.
4. Identify the source of the rights to demonstrate and protest.
5. Identify in general what constitutes reasonable force.
6. Identify the issues involved in locker searches by school authorities.

III. SCHOOL

A. Attendance

DO I HAVE TO GO TO SCHOOL?

Yes. Everybody between the ages of 7 and 16 must go to school for at least 175 days of classes spread over the calendar year. However, your parents may request that you be excused from attendance and the local school board may permit it (a) if your health is so poor that you cannot go to school and do your work, (b) if you have already completed all work required in the tenth grade or (c) if your parents want you to take religious training for up to 3 hours a week. (*Minn.* *Stat.* Sec. 120.10)

IS IT ALL RIGHT TO GO TO A PRIVATE SCHOOL?

Yes. This is permitted if the teaching is all done in English, and the teachers have the same qualifications as the teachers in the public schools. (*Minn.* *Stat.* Sec. 120.10)

WHAT HAPPENS IF I DON'T GO TO SCHOOL?

The truant officer may arrest you, even without a warrant, and take you back to school. (*Minn.* *Stat.* Sec. 120.14) He may also order your parents to keep you in school. (*Minn.* *Stat.* Sec. 120.14)

CAN MY PARENTS GET IN TROUBLE IF I DON'T GO TO SCHOOL?

Yes. The local superintendent of schools may notify your parents that you have been absent without an excuse and order them to send you to school. If they don't do so they are guilty of a misdemeanor and may be prosecuted. (Minn. Stat. Secs. 120.12 and 127.20)

DO I HAVE TO GO TO SCHOOL EVEN IF I NEED TO WORK DURING THE DAY TO EARN MONEY TO LIVE ON?

Yes. If your family is so poor that you must work, and this would interfere with your schooling or keep you out of school completely, you should contact the local school board. They are required to give you financial aid so that you can go to school. (Minn. Stat. Sec. 120.16)

WHAT CAN HAPPEN TO ME IF I REFUSE TO ATTEND SCHOOL?

The school boards are allowed to set up special schools for students who are "habitual truants"; who are "incorrigible" (uncontrollable) "vicious", or "immoral"; or who "habitually wander about the streets during school hours." These students are deemed to be delinquent and the school board may require them to go to truant school or bring them before the juvenile court for "discipline." (Minn. Stat. Sec. 120.15) The state law does not specifically define "habitual truant" or say how many days you may cut school before being classified as a habitual truant. Usually habitual means that something is done very often. Whether a student is a habitual truant is decided according to the facts of each individual case by the school board or by a court.

WHAT CAN THE JUVENILE COURT DO TO ME IF I AM FOUND TO BE A HABITUAL TRUANT?

Any habitual truant can be declared a "delinquent child" by the juvenile court. The judge can then do whichever of the following things he thinks will be best for you:

1. Counsel with you and your parents.
2. Place you under the supervision of a probation officer at home or put you in a group foster home.
3. Take custody from your parents and transfer it to a child-placing agency, the county welfare board, another person (usually a relative), a county home school, or a group foster home.
4. Take custody from your parents and transfer it to the Minnesota Corrections Authority. (Minn. Stat. Secs. 260.185 and 191)

What the court actually does in any case depends on such things as the reason that you missed school, the attitude of your parents, the nature of your home life and any special problems you might have. Prior to making a decision, the court would have a hearing on all of these issues and might also order an investigation of all of the facts and circumstances. (For more information, see Chapter V, Section B on Juvenile Court.)

MUST THE PUBLIC SCHOOLS ALLOW ME TO ATTEND?

In general all persons over 5 and under 21 have a right to attend the state's public schools free of charge. (Minn. Stat. Sec. 120.06) However, the school board may exclude or expel students under certain conditions that we will discuss below.

B. Suspension & Expulsion

WHAT IS THE DIFFERENCE BETWEEN BEING SUSPENDED AND BEING EXPELLED?

A suspension means that you are excluded from school for a limited period of time - usually only a few days. Expulsion means that you cannot return to school at all. Expulsion is used only for serious infractions of the rules, while suspension is used in cases where the offense is a milder one. However, in order to do either, the school board must conform to the guidelines laid down by the 1974 State Legislature, embodied in the Pupil Fair Dismissal Act of 1974.

FOR WHAT REASONS CAN I BE EXCLUDED FROM SCHOOL?

According to the act cited above, a student can be expelled or suspended from school for any of the following:

1. Willful violation of any reasonably known and definite school board regulation to which students must conform their conduct.

2. Willful conduct which materially or substantially disrupts the rights of others to an education.

3. Willful conduct which endangers the pupil or other pupils, or the property of the school.

Some of the more interesting decisions involving suspension or expulsion include the following cases. A student who has a contagious disease may be temporarily excluded from school because of the health hazard to the other students. (Bright v. Beard, 132 Minn. 375, 157 N.W. 501 (1916)) A student who is caught smoking in violation of the law outside the school grounds may not be expelled. Students cannot be expelled simply because they are married. (Op. Atty. Gen., 169-i-, May 1, 1965) One Federal Court decided that a male high school student could not be expelled from a Minnesota public school simply because he had shoulder-length hair. The court said that the student had the right to wear the hair style of his choice, because the school could not show that his hair was a health hazard or that it would substantially interfere with school discipline. (Westley v. Rossi, 305 F. Supp. 706 (D. Minn., 1969))

The important thing to remember is that you can be expelled or suspended if you have done something which causes a danger to the health of the other students or which interferes with order and discipline in the school.

WHAT RIGHTS DO I HAVE IN A DISMISSAL PROCEEDING?

The State Legislature in the Pupil Fair Dismissal Act of 1974 has also guaranteed some rights to students subject to being suspended or expelled. First, before taking such action, the school must attempt to provide alternative programs of education such as special tutoring, curriculum modification or assistance from other agencies.

If this fails and the school board is compelled to start dismissal proceedings, the student must be afforded a whole host of procedural safeguards, including specific written notice, opportunity for a timely hearing with prior review of the evidence and confrontation of witnesses, representation of legal counsel if desired, uniform application of criteria for dismissal and judicial review on appeal.

WHAT CAN I DO IF I'M EXPELLED AND I DON'T THINK THERE WAS A GOOD REASON?

Since expulsion means that you might not be able to finish your education, your parents could take additional legal action to get you back in school. Your parents could ask for an "injunction." This is an order from the court which prohibits somebody else from doing something. In this kind of case the school would be prohibited by the court from dismissing you if their reasons for doing so did not conform to the law or if they failed to extend to you your legal rights.

C. Demonstrations & Protest

CAN I BE EXPELLED FROM SCHOOL FOR DEMONSTRATING OR PROTESTING?

This is a very complicated problem; it is not simply a question of Minnesota law but involves the Constitution of the United States. The First Amendment to the Constitution guarantees the right of free speech to all citizens (including students), but there are often problems about what is really speech and what is really an act. Also the right of free speech is not absolute: you can't, to use a famous example, yell "fire" in a crowded theater and not be punished for it.

Recently the United States Supreme Court decided one case involving student protests in school that is interesting. Two high school students and one junior high school student who had worn black armbands to school to protest the war in Vietnam were suspended. The Supreme Court said that the school was wrong to suspend the students and that the school could not forbid students to express their political opinions unless the school could show that allowing the students to do this would "materially and substantially interfere with the requirements of appropriate discipline in the operation of the school." (Tinker v. Des Moines School District, 393 U.S. 503 (1969)) However, the judges said that their opinion did not necessarily apply to any disruptive behavior or even to group demonstrations.

The Tinker case applied to a specific set of circumstances and the decision of the court was by no means unanimous. If you have a problem which appears similar, you need specific advice from a lawyer.

D. Physical Punishment

CAN A TEACHER HIT ME OR PHYSICALLY PUNISH ME?

Yes. A teacher or principal may use "reasonable force" to "restrain or correct" a student. (*Minn. Stat.* Sec. 609.06) Naturally this does not mean that they can really injure you. If the teacher intentionally used more than reasonable force he might be guilty of assault, a misdemeanor in Minnesota. (*Minn. Stat.* Sec. 609.22)

E. Locker Searches

CAN THE PRINCIPAL OPEN MY LOCKER WITHOUT MY PERMISSION?

At present this is a confused area of the law. There are conflicting rights involved in this question. First, the principal of any school has an obligation to protect the health and welfare of the students. In the past the principal and teacher have stood in place of the parents (*in loco parentis*). On the other hand the Fourth Amendment to the United States Constitution forbids unreasonable searches and seizures. There have been two ways in which courts have approached the question. One is by application of the criminal law; the other is by application of an administrative concept. When applying the criminal law, courts have looked at the ideas that the Fourth and Fifth Amendments of the United States

Constitution bar any expulsions or suspensions of students based on evidence obtained by an unreasonable search or a compelled self-incrimination. The United States Supreme Court has said that searches conducted outside the judicial process (without prior approval by a judge or magistrate - without a warrant) are per se unreasonable (Coolidge v. New Hampshire, 403 U.S. 43 (1971)). Then by applying the Tinker case, which says that no longer can a student lose his constitutional rights when he enters the schoolhouse gates, some courts have felt that a principal may not look in the locker of a student without the student's permission or a warrant. If any incriminating evidence is found in the locker, it may not be used against the student in a court of law or for a suspension or expulsion. However, some courts have applied the administrative concept. They view the opening of the locker by the principal as a valid exercise of his authority, both as the administrator of the school which is the true owner of the locker and as a person who stands in place of the parents. These courts have felt that the primary purpose of the school official's search of a locker is not to obtain convictions of the student but rather to protect the student himself, and all the other students at the school. In the case of People v. Overton, 20 N.Y. 2d 360, 299 N N.E. 2d 596 (1967) a New York court felt that even though the principal opened the locker without the permission of the student, the marijuana he found and turned over to the police was admissible in a criminal hearing against the student, since the principal was exercising his administrative function. One court in Kansas (State v. Stein, 203 Kan. 638, 456 P. 2d 1 (1969)) stated: "We believe this right of inspection is inherent in the authority vested in school administrators and that the same must be retained and exercised in the management of our schools if their educational functions are to be maintained and the welfare of the student bodies preserved." The area of student locker searches and personal searches in the school is still extremely hazy. Neither the Minnesota Supreme Court nor the United States Supreme Court has specifically addressed itself to this problem. There is also no specific Minnesota Statute in the area.

CAN A TEACHER OR THE PRINCIPAL INTERCEPT AND OPEN A SEALED NOTE ADDRESSED TO ME?

No. It is a misdemeanor to intentionally open any sealed letter, telegram or package addressed to another without the premission of the addressee or the sender. (Minn. Stat. Sec. 609.795) This appears to apply to any sealed communication, whether transferred through public or private means.

PROBLEM 1

Tom, Dick and Harriet, three students at East-Southeast High School, decided that the school paper does not speak for the majority of students; they decided to put out an "underground" newspaper that would really fulfill that function. Their first issue was produced on stencils which Tom stole from the school office. The issue was run on the school mimeograph machine without permission.

The paper contained the following: a column making some untrue statements about the principal's sex life; a list of "ratings" of the various teachers, mostly in obscene and abusive language; a "letter to the editor" written by Harriet in which she criticized the school's grading system, called for the resignation of the assistant principal on grounds of incompetence and urged all students to stay out of school on a particular day as a protest against the allegedly execrable food served in the cafeteria.

After the paper had been mimeographed, Dick, who had no part in writing of the material, distributed the paper to every student he could find by standing in front of the cafeteria door, disrupting traffic and making many students late for class. The teachers complained that their students read the papers in class and didn't pay attention to the class work because of their interest in the scandalous and controversial material in the paper.

The school administration, upon discovering who was responsible for the paper, summarily dismissed Tom, Dick and Harriet from school by means of a short letter saying merely that, because of conduct unbecoming a student, they were permanently expelled and would not be eligible for re-admission.

1. Has any of the three students committed a crime?
2. Has any of them committed a tort?
3. Has the school the right to dismiss them? Why or why not?
4. a. Could the school forbid them from publishing their newspaper?
   b. From distributing it during school hours?

TEACHER'S NOTES
CHAPTER III

School affects every young person. Every student has some problem related to the school. This forum can provide a good jump-off point to get students interested in particular problems. These teacher's notes will attempt to address problems they may have already studied in The Student Lawyer.

A. 1. Attendance The teacher might ask the students, after studying the attendance concepts in The Student Lawyer, "Suppose your family were Amish, and you sincerely believed that education beyond the eighth grade was detrimental to your religion. Must you attend school after the eighth grade, even though you are not yet sixteen years of age?" This question is based on a United States Supreme Court case, State of Wisconsin v. Yoder, 406 U.S. 205 (1972). The case deals with the power of the state to force its students to attend school based on the concept of citizens' health and welfare in Article I, Section 8 of the United States Constitution balanced against the freedom of religion concept of the First Amendment to the United States Constitution. Discussion will immediately take place that the State should not have the power to force someone to do something he doesn't want to do when it is against his religion. However, you can then ask whether the State can force people to stop wrapping poisonous snakes around their necks as part of their religion. This concept involves the State's power to step in when there is not just belief involved, but also action. When the facts involve strictly belief, the State has no power to advance nor prohibit the religion. However, when there is belief plus action, the State does have the power over the actions. The Yoder case decided in favor of the Amish because the Supreme Court said the State was attempting to deal with an intricate belief of the people, not merely the action of the people.

2. Private School Attendance In 1925 the United States Supreme Court held that a state statute which required all children to attend public schools was unconstitutional because it was an undue encroachment on the rights of parents to direct and control the education of their children. Further, it could involve the rights of parents and children to freedom of religion. (Pierce v. Society of the Holy Names of Jesus and Mary, 268, U.S. 510 (1925)) Since parents have a right to send their children to private schools, including schools which teach religion, a new problem

has arisen. Minnesota has been deeply involved in this problem since 1971. The problem is: "Do the children or parents have a right to government monies to help subsidize the schools to which they have a right to send their children?" In other words, since parents who are sending their children to parochial schools pay taxes, should some of that tax money go to the support of the parochial schools? The problem here involves government money possibly aiding religion, which the First Amendment to the United States Constitution prohibits. "Congress shall make no law establishing a religion." The State of Minnesota by statute permits the transportation of private school pupils on public school buses and also gives parents who send their children to non-public schools a tax credit when filing their Minnesota State Income Tax. Such aid has been attacked as violating the First Amendment to the United States Constitution, and as violating Article VIII, Section 2 of the Minnesota Constitution, which forbids monetary aid to sectarian schools. The Minnesota Supreme Court has upheld the statute which permits transportation of school children. (Minn. Stat. Sec. 123.76 affirmed by the Minnesota Supreme Court in the case of

Americans United, Inc., as Protestants, etc. v. Ind. School Dist. No. 622, 288 Minn. 196, 179 N.W. 2d 146 (1970)) However, as of yet, the Minnesota Supreme Court has not spoken on the matter of tax credits for parents who are sending their children to non-public schools. The United States Supreme Court, in a series of decisions, seems to be indicating that almost any kind of direct or indirect government aid to non-public schools, except textbooks and busing aid, will be considered a violation of the First Amendment.

B. *Suspension and Expulsion* The area of suspension and expulsion of students in the public schools is an extremely delicate and sensitive problem. How do the teacher and principal deal with the unruly student, who often wishes to be suspended in order to get a day off? Does suspension or expulsion truly aid in the education of that particular student, or does it show a breakdown in the educational system itself and an admission that the system does not work for the particular student? Should that particular student be permitted to disrupt the educational processes for the other students in the class or the school? When, and for what reasons, should a student be suspended?

When, and for what reasons, should a student be expelled? It may be helpful to discuss these questions before getting into the material on suspension and expulsion itself. Can the students think of any reasons why a student should be suspended? Expelled? Does any student, even a disruptive student, have a basic fundamental right to an education under our Constitution? Is his right to "life, liberty, or property," (Amendments V and XIV) disrupted by not being given an education, through being suspended or expelled? Should a principal or teacher have the automatic right to suspend or expel a student? If not, what procedures would the students set up to safeguard their rights in a suspension or expulsion setting? Should the students have a hearing in each case, and what rights should the students have at the hearing? Does a student have a right to an attorney? Does the student have a right to cross-examine witnesses? Does a student have a right to look at any material which may be presented against him? Who should be the judge at the hearing - the principal, the school board, other students? What reasons should students be suspended or expelled - smoking, long hair, marriage, use of foul language (free speech?), distribution of material in the school (free press?)?

The courts, in recent years, have been extending the rights of students in the area of suspension and expulsion. Although the United States Supreme Court said the right to an education was not a fundamental right of every citizen in the United States (San Antonio Independent School District v. Rodriquez, 411 U.S. 1 (1973)), the Pupil Fair Dismissal Act states the only reasons for which students can be excluded, who shall exclude and the student's rights before exclusion.

C. Demonstrations and Protests Most people hear the words "Free Speech," but never delve into their true meaning as applicable in the United States through the Constitution. One Justice on the United States Supreme Court, Justice William Douglas, believes that the words "Free Speech," mean exactly that. He advocates the idea that the First Amendment right to freedom of speech means that a person can say absolutely anything he chooses to say at any time. The majority of Justices on the Court, however, believe that there always have been some limitation in regard to freedom of speech and freedom of press. One has never been permitted to yell "fire" in a crowded theater nor has the Court permitted hard-core pornography to be distributed and sold in this country. What types of tests have been applied to determine what words are proper and what words are improper? The Supreme Court has set up several tests. The general concept is this: the State may regulate the place where a speech may be given, so that a person who attempts to give a speech during a church service may be legally arrested for disrupting that service. The State is not regulating the content of the speech, but rather the place in which the person is attempting to speak. So, also, in the school classroom during an English class a student does not have the right to stand up and disrupt that class, even though he allegedly is exercising his freedom of speech. However, the state may not prevent speech in total in the school; that is censorship. A forum must be provided for the student to express his opinion. When the courts feel they are dealing with a regulation they will determine whether that regulation is reasonable but still gives a person a chance to express his opinion by his speech. However, dealing with censorship the court will apply a different test. There the court will decide whether the censorship of a particular speech is proper because such speech would present a clear and present danger in a particular situation; if not, then the censorship will be considered improper. In the area of demonstrations and protests, it must be remembered that the student as well as the teacher has a right to his constitutional free-speech rights; although the content of the speech cannot be regulated, the place where the speech takes place can and is regulated. It cannot be censored unless there is a clear and present danger of immediate harm and disruption. Therefore, when dealing with the Tinker case it is necessary to understand that the wearing of the black arm bands as a protest against the war in Viet Nam was considered by the court to be symbolic speech which did not in any way interfere with the appropriate discipline and operation of the school. An interesting example to discuss would be whether students had a right to wear rebel-flag arm bands in a recently desegregated school, when the wearing of such arm bands in the past had caused serious racial distrubances.

D. Physical Punishment An interesting problem in this area arises when the student is physically threatening the teacher, rather than the teacher physically threatening the student. What then are the teacher's rights? What can be done to the student who is physically threatening another student? Who can do what? What does the law permit?

E. *Locker Searches* Read carefully the Fourth Amendment and Fifth Amendment of the *United States Constitution*. Then discuss the teacher's and principal's duties in regard to the safety, health and welfare of the students in the school. Then consider these facts: A teacher is notified by a student that there is a ring of students operating on the second floor, selling various pep pills and marijuana to other students. The teacher asks the student if she can identify the person making the sales. The student does not know the names of the people, but does know that the ring is operating out of *three* lockers on the second floor; she does not know which lockers. The teacher informs the principal and the principal decides to open all the lockers on the second floor while the students are in class. The principal finds *two* lockers stuffed with various narcotic drugs. Can the principal notify the police? Can the police use the evidence found by the principal to arrest the students? Can the evidence found by the principal be used against the students for suspension or expulsion? Do the students have a right to a hearing before they are suspended or expelled? What rights do the students have if they are given a hearing? Do other students in the school have a right to pass out literature advocating the use of marijuana and urging that they have the right to make purchases of marijuana in the school? Can literature be passed out asking the student body to get behind the suspended students who were selling the drugs?

F. General . There are many cases involving various rights of students. One of the recently developing areas in which there is a high degree of interest in discrimination based on sex. A discussion can take place on how much money is being spent on girls' athletics compared to boys' athletics. Should a qualified girl be permitted to play hockey on the varsity team? Should a qualified boy be permitted to try out for a girl's basketball team? Because of Brenden v. Independent School District No. 742, 342 F. Supp. 1224 (D. Minn., 1972); Aff'd 477 F. 2d 1292 (8th Cir., 1973)), the Minnesota State High School League has abandoned all rules separating the sexes in competitive sports. So during the school year 1973-74, students, no matter which sex, could try out for any varsity team including contact sports. Should this be? What might happen to girls' sports? Can you suggest an alternative in line with the "equal protection" concept of the Fourteenth Amendment?

Response to Self-Quiz should be as follows:

1. False (page 80)
2. True (pages 80 and 81)
3. True (pages 81 and 82)
4. False (page 80)
5. False (pages 83-85)
6. False (pages 86 and 87) The student may be doing so in such a way that more urgent considerations might outweigh this right.
7. True (pages 84 and 85)
8. True (pages 83 and 84) Stress "reasonable" only with regard to public health and interference with student safety, or school discipline.
9. False (page 83)
10. False (page 87)
11. False (pages 87-89)

The problem at the end of the chapter presents a conflict between the student's right to freedom of expression and the right of school authorities to place reasonable limitations on student activities where they are prejudicial to student health, safety or the orderly pursuit of the educational process. For purposes of discussion this problem appears to be "loaded" against the students; once again, however, the teacher should encourage the students not to jump to any hasty conclusions.

Discussion guidelines:

1. Obviously, Tom has committed a crime in stealing stencils from the school office. It is more than likely that the stolen stencils had a value of less than $100. Minnesota Statute Section 609.52 (3)(4) states that for theft of items under $100, the maximum sentence would be 90 days or $100 fine. Applying the definitions of crime at the beginning of Chapter V, the student will find that this is the misdemeanor commonly called "petty theft." See Chapter V, Section B, Juvenile Court on how this statute might be enforced.

   In addition, Dick and Harriet may be guilty of receiving stolen property. Minnesota Statute Section 609.53 provides that "whoever intentionally receives or conceals stolen property . . ." may be guilty of a misdemeanor and sentenced accordingly. The chief issue here would be whether Dick and Harriet knew the stencils to be stolen and accepted them for use from Tom with that knowledge. Perhaps the three students have violated a known and reasonable school board regulation by using the mimeograph without permission.

As to the contents of the paper itself, it may be argued that the three students are guilty of criminal defamation, the maximum penalties for which are one year in jail or a fine of $1,000, or both, according to *Minnesota Statute* Section 609.765. This statute defines the crime as being committed when anyone communicates in any form to a third person anything which exposes a person or group to ". . . hatred, contempt, ridicule, degradation or disgrace in society, or injury to . . . business or occupation" without that person's consent. The important exceptions to this rule include the communication of true matter in good faith, where such disclosure is privileged or is a part of a court proceeding, or where such comments are fair and made in good faith about persons participating in issues of public concern. However, this statute is used only for the most flagrant of violations; most defamation actions appear in civil court where those injured can receive remedies ranging from money judgment to injunctions.

2. As we discussed directly above, defamation is most often treated as a tort which can be acted upon in civil court, rather than a criminal offense. For purposes of discussion it can be said that the definition and rules of criminal defamation are about the same when applied in civil actions. The statements made in the underground newspaper must be considered in this light. For example, the untrue statements about the principal's sex life are obviously printed defamation, commonly known as libel. On the other hand, teacher "ratings," even in obscene language, may or may not be libelous, depending on the truth or good faith of each statement. For each of these statements it must also be shown both that such comments were injurious and that someone would have believed such statements. Harriet's letter describing the assistant principal as incompetent may be fair comment on a person in public office, which is a defense to a libel action. Her comment on the execrable food in the cafeteria may or may not also be excused as a fair comment on a matter of public interest.

Discuss also the problem of from whom a money judgment could be recovered by the injured parties. See Chapter I.

3. This question brings up the problem of sufficient legal cause for expulsion. The text clearly states that students can be expelled or suspended for willful violation of reasonable school board regulations or activities detrimental to student health, student safety or the order and discipline in the school. The disruptive effects of students reading the paper during class time, blocking the cafeteria door, the call for a one-day boycott of school to protest the cafeteria food and the controversial material in the paper itself may or may not constitute sufficient cause for expulsion under one or more of these criteria. However, "conduct unbecoming a student" without more specific information probably does not. Students may also want to discuss expulsion without eligibility for re-admission in light of the mandatory education requirements and the gravity of these three students' offenses.

The procedure used here for expulsion is not up to legal standards either. The students must be afforded specific written notice, the opportunity for a hearing and all other attendant procedural safeguards before they can be dismissed. A short letter with unspecified offenses is not sufficient.

4. a. This question poses the conflict between the students' right to freedom of expression and the school's right to protect the health and safety of all its students while providing an atmosphere conducive to learning. Has the explosive content and distribution of this paper overcome the normally predominant right to freedom of expression? The students might also want to discuss how much of the doctrine of in loco parentis survives: can the school prohibit the publishing of the newspaper to keep the students from risking criminal or civil liability?

b. Turning aside from the question of whether publication can be prohibited, if it can be published, can the school prohibit distribution during school hours? Here, the balance may shift away from students' rights to the stronger right of the school to prohibit disruptive, extraneous activities during times scheduled for educational activities.

Chapter 4

Marriage

- AGE & CONSENT
- LICENSE & BLOOD TEST
- MARRIAGE CEREMONY
- LEGAL OBLIGATIONS
- EMANCIPATION BY MARRIAGE
- DISSOLUTION

Sally, age 16 and Ralph, age 16, after going steady for one year decided to get married during the Christmas holidays. Neither could get parents' approval but both have identification showing each to be 18. They decide to go to Iowa to get married because it is easier there. They ask you for some help and advice including being a witness for their marriage.

What are you going to do?

What are some of their problems with the Minnesota law? ____ True ____ False

If they are married, is the marriage legal?

INTRODUCTION

Obviously marriage is a serious undertaking. Marriage gives rise to many legal obligations and rights which are enforceable in a court of law. These rights and obligations are of concern not only to the person directly involved but to the people of the State of Minnesota as well. Accordingly, the state has established rules closely governing the process of marrying and dissolving marriages and the rights of the parties during the marriage relationship.

The material in this chapter is designed to explain the technical rules involved in obtaining a marriage license and getting married. It will also explain some of the duties and responsibilities that married partners undertake.

SELF-QUIZ

Review the following true-false questions to see whether your present ideas about marriage are accurate before reviewing the material in the chapter.

1. Both parties must be at least 18 years old in order to marry. ____True ____False

2. Marriage emancipates the parties and they are no longer subject to the control of their parents for most purposes. ____True ____False

3. A marriage entered into in another state is not valid if it does not meet the requirements of the state where the parties really live. ____True ____False

4. Only a minister, priest or rabbi can perform a binding marriage ceremony. ____True ____False

5. There is a five-day waiting period between the time of application for a marriage license and issuance of the license in Minnesota. ____True ____False

6. A marriage between first cousins is void in Minnesota. ____True ____False

7. A high school may expel a student who gets married. ____True ____False

8. After marriage each party has the legal authority to bind the other party to any contract with other people.

____True ____False

9. The husband has the legal obligation to support his wife.

____True ____False

10. A blood test is required of persons who apply for a marriage license in Minnesota. ____True ____False

11. A married couple separate but do not petition to dissolve the marriage. Later the wife inherits some real property and decides to sell. The husband can prevent this sale. ____True ____False

12. A girl marries at 16 with the consent of her parents and the juvenile court. She thereby gains all rights of an adult.

EDUCATIONAL OBJECTIVES
CHAPTER IV: MARRIAGE

Most people do get married at some time in their life and some idea of the responsibilities of that relationship should be communicated. The fact that dissolution of the marriage is not as easy or pleasant as getting married should also be known and some idea of the complexity of the dissolution process should be understood. Dissolving a marriage is very much like attempting to unscramble an egg and the student should understand that marriage and dissolution are not light matters.

Each student will be able to:

1. Identify three conditions necessary for a legal marriage in Minnesota.
2. Identify at least two obligations of each person involved in a marriage and what impact a dissolution of that marriage has on these obligations.
3. Identify at least three reasons for dissolving marriages.

IV. MARRIAGE

A. Age & Consent

WHEN CAN I GET MARRIED?

1. If you are 18 years of age or older you can get married without your parents' consent whether you are a boy or a girl.
2. If you are a girl 16 or 17 you may marry if you have the written consent of your parents and the consent of the juvenile court judge for your county. Before he approves your application for a marriage license the juvenile court judge may ask you why you want to get married. He can refuse to allow the marriage if he feels your reasons for marriage are not good ones.
3. If you are a boy younger than 18 or a girl younger than 16 you may not marry even if you have the written consent of your parents. (Minn. Stat. Secs. 517.02 and .03) This requirement cannot be waived by anyone for any reason.

B. License & Blood Test

HOW DO I GET A MARRIAGE LICENSE?

You must apply for the license from the clerk of the district court in the county where the girl lives. (His office is normally found in the county courthouse.) You must tell the clerk under oath your name, address, age and if you have ever been married before. You must then wait five days to get the license. The clerk may refuse to give you a license if you are too young, if you are already married, if you are applying to marry a relative closer than a second cousin or if you are incompetent. (Minn. Stat. Sec. 517.08)

WHAT CAN HAPPEN IF WE LIE ABOUT OUR AGES TO GET MARRIED?

1. If either of you is so young that you could not be married at all, the marriage is absolutely void. The law will treat you as if you had never gone through a marriage ceremony. It is not necessary to end the marriage by petitioning the court to obtain a dissolution or annulment because in the eyes of the law there was no marriage. (Minn. Stat. Sec. 518.01)
2. If you were married without the consent of your parents and consent was necessary the marriage is voidable. This means that the person who was underage at the time of the marriage may go to court and have the marriage ended by annulment. (Minn. Stat. Sec. 518.02) The marriage cannot be annulled if the parties lived together as husband and wife after they both reached the age of consent. In this case a dissolution must be sought. (Minn. Stat. Sec. 518.04)
3. Lying under oath is called perjury and is a very serious crime. If you lie to the clerk of court about your age after

having sworn to tell the truth you might be prosecuted or declared delinquent as a result. (Minn. Stat. Sec. 609.48)

DO I HAVE TO GET A BLOOD TEST TO GET MARRIED?

No. Many states require this but Minnesota does not.

C. Marriage Ceremony

WHO CAN PERFORM A MARRIAGE CEREMONY?

Any judge or licensed or ordained minister may perform a marriage. In some cases the superintendent of the department for the blind and deaf may also perform marriages and the few justices of the peace remaining in Minnesota may perform marriages in the counties where they are elected. (Minn. Stat. Sec. 517.04)

IF I GO TO ANOTHER STATE TO GET MARRIED, WILL THAT MARRIAGE BE RECOGNIZED IN MINNESOTA?

There is a general rule of law, recognized in Minnesota, that if the marriage is valid under the laws of the state in which it is performed, it is valid everywhere. (In re Kinkead's Estate, 239 Minn. 27, 57 N.W. 2d 628 (1953)) Note that the marriage first has to be valid in the state where it is performed. For example, an Ohio marriage is recognized as valid in Minnesota if it was valid under Ohio law when performed there.

D. Legal Obligations

WHAT LEGAL OBLIGATIONS RESULT FROM A VALID MARRIAGE?

Marriage is a kind of contract. That means that each of the two people involved has certain duties toward the other partner. The state has an interest in this kind of contract and the partners cannot decide to end the marriage unless the state agrees and dissolves the marriage. (Gerber v. Gerber, 241 Minn. 346, 64 N.W. 2d (1954)) The husband has a duty to support his wife and children and to pay for their necessities. Even if the marriage is dissolved the husband must continue to support his children and he may have to provide for his former wife through alimony or property division. (Minn. Stat. Secs. 518.54, .55 and .57; Messer v. Messer, 289 Minn. 449, 184 N.W. 2d 801 (1971)) The reasons for dissolution discussed below also give you an idea of some of the legal obligations of marriage by implication. For example, since a reason for dissolution is continuous separation of one year or more, it follows that your legal obligation is to stay with and support your spouse as much as you can.

DO I HAVE TO PAY ALL OF MY HUSBAND'S OR WIFE'S BILLS?

Not always. The husband must always pay the wife's creditors (people she owes money to) for necessities. This is really the same as the things he would have to buy her if he was supporting her directly. Both the husband and wife, if they are living together, can be sued for all things either of them bought for their home. (See Chapter I, Section B on liability on contracts.) (Minn. Stat. Sec. 519.05)

E. Emancipation By Marriage

DO I BECOME EMANCIPATED WHEN I LEGALLY MARRY?

To review briefly the material in Chapter II, Section A (8), emancipation is the ending of legal ties between parent and child. It can be complete or partial. Emancipation occurs automatically when you become 18, and it may occur earlier.

One of the ways emancipation can occur before you reach the age of consent (18) is through marriage. This emancipation is not complete. While your parents or a guardian would no longer have the right to control your activities, they would have the right to control substantial or valuable property as guardians in your home. (Minn. Stat. Sec. 525.60) For example, a girl of 16 who is legally married to an 18-year-old husband would not have to account to her parents or guardian for her hours or secure their permission to change her residence, nor could she claim support from such sources as social security or workman's compensation which she was collecting as a dependent of her parents. (Minn. Stat. Sec. 176.111) However, if she has inherited or been given substantial valuable property, her parents or guardian would still hold the property in trust (controlling it for her benefit) until she reaches the age of consent or another age specified for her control of the property.

F. Dissolution

It has been stated that marriage is not a status to be lightly entered into. One of the most important reasons for this statement is the legal and emotional complexity of the process of dissolving the marriage, now known as dissolution rather than divorce. Dissolution of marriages has been likened to attempting to unscramble eggs.

WHAT ARE THE REASONS FOR PETITIONING THE COURT TO DISSOLVE A MARRIAGE?

The reasons for dissolution are limited by the law. A person can petition for dissolution due to an irretrievable breakdown of the marriage relationship if either husband or wife is sentenced to prison, has been committed to a state institution, has been habitually alcoholic or drug dependent for the past year, has been legally separated from the other for the past year or has consistently acted in any way which injures the marriage relationship of the other person. (*Minn. Stat.* Sec. 518.06)

WHAT ARE SOME OF THE PROBLEMS THAT MUST BE CONSIDERED BY COURTS BEFORE A DISSOLUTION PETITION IS APPROVED?

1. Custody of the children. Custody is to be decided with the best interests of the children as a goal. Custody is usually given to the parent best able to provide the child with the physical and psychological environment needed for a "normal" childhood. Courts have been known to favor the mother. The spouse not awarded custody is usually given reasonable visitation

rights (the right to see the children at reasonably regular intervals), unless such visits would be physically or morally detrimental to the child. (See Minn. Stat. Secs. 518.16 and .17)

2. Support of the children. Though by statute either spouse may be required to pay support, the father is usually required by the court to pay reasonable and regular amounts to support the children of the marriage until their mother remarries and the children are adopted by her new spouse. (See Minn. Stat. Secs. 518.54, .55 and .57)

3. Alimony. By statute either party may be required to pay alimony. However, when alimony is granted it is usually the husband who is required to pay for the support and maintenance of his wife. This is particularly true where the wife is not employed or capable of being employed. This payment is called alimony and usually terminates if the wife remarries. (See Minn. Stat. Secs. 518.54 and .55) Demands for alimony are becoming rare in proceedings which dissolve marriages.

4. Restoration of the wife's maiden name. This is most

often granted by courts if the wife requests it in bringing the dissolution petition. (Minn. Stat. Sec. 518.27)

5. Division of the property of the marriage. Some states like California have what is known as a community property rule, meaning that the property is split approximately half and half when the marriage is dissolved. However, Minnesota has no such rule. Minnesota courts are given broad discretion (independent authority aside from any past decisions) to decide how all property acquired during the marriage, including the family home and household goods, should be divided. (Minn. Stat. Secs. 518.58, 159 and .63) The division of the property of the marriage is particularly important because neither spouse can do anything with the property until ownership is determined. For instance, while parties are married, neither can sell or give away any real estate without the written consent of the other. This stems from the right of a spouse to certain property at the death of the other spouse. No buyer would pay for land if he realized that on the death of the spouse selling to him, the other spouse could then assert a right of ownership - probably including additions made by the buyer. For this reason any deed requires identification

of the seller as to marital status, and if the seller is married the signature of the other spouse is required before the property can be totally transferred.

PROBLEM 1

Helen and Herbert, both 17 years of age, obtained a marriage license with falsified birth certificates. They were married and rented an apartment. Herbert and Helen both worked and they lived comfortably until Helen became ill and incurred substantial medical bills.

As money became tighter and tighter Herbert couldn't pay the rent on the apartment and couldn't pay the medical bills. The couple moved to the home of some friends where they could stay rent-free. The landlord from the apartment is claiming that he is entitled to eight month's rent for the balance of the term of a lease which both Helen and Herbert signed when they moved into the apartment.

Helen's parents had "washed their hands of her" when she married Herbert and want nothing to do with her. Herbert has now left Helen and is living with some friends. Helen is pregnant. Both Helen and Herbert are now 18 years of age.

Is the marriage void? Voidable? Completely valid?

Does the landlord have any valid claim against Helen or Herbert for rent?

Does Helen have any claim against her parents for her medical expenses?

What are Herbert's obligations to Helen?

Has Herbert committed any crimes?

PROBLEM 2

Scott and Mary worked in the same department store. Mary was a 16-year-old part-time clerk still attending high school. Scott was a 20-year-old sporting goods clerk. They decided to get married but Mary's parents would not consent. A friend at the store told them mistakenly that in a neighboring state a girl can get married without consent at 17. The neighboring state actually has the same laws as Minnesota.

Scott and Mary traveled to the neighboring state and were married. Wanting to be safe about Mary's age, they decided at the last minute to tell the clerk that Mary was 18.

For awhile the marriage went smoothly. Mary's parents finally accepted Scott as a son-in-law and helped them make a down payment on a house. Scott and Mary had a child, forcing Mary to stop working. After three years Scott started drinking heavily and stayed away from home for days at a time. Mary learned that during these times Scott was staying with women he met while drinking.

Mary has told Scott that she wants to terminate the marriage and that she is going to sell some property she inherited from her grandmother last year to obtain independent funds. Scott consults an attorney and says he will block the sale by refusing to consent to it, just to get even with her.

1. Can Mary have the marriage annulled as invalid, or must she go through the process of dissolution? Should Mary be thinking about dissolving the marriage at this state of their relationship?
2. If she must petition the court for dissolution on what reasons could she base her petition?
3. What are some of the problems that may be encountered in the dissolution process?
4. Can Scott block Mary's sale of her inherited property?
5. Assume the dissolution petition is approved and Scott refuses to help support his family. Besides the legal steps that can be taken against him, do Mary's parents have any further obligations to her?

TEACHER'S NOTES
CHAPTER IV.

Response to the Self-Quiz should be as follows:

1. False (page 96)
2. True (page 100)
3. False (page 98)
4. False (page 98)
5. True (page 97)
6. True (page 97)
7. False See Chapter III. This is not sufficient cause under the stated criteria.
8. False (page 99)
9. True (page 99)
10. False (page 98)
11. True (pages 103 and 104)
12. False (page 100)

DISCUSSION OF PROBLEM 1

Problem 1 is designed to point out the difficulty of entering into the marriage relationship and the rights and obligations which arise from it.

The students should discuss the question of whether, having obtained a license under false representations, Helen and Herbert are in fact married and he should distinguish between a void, voidable and valid marriage.

The question of whether the landlord has any valid claim against either party for the rent overlaps the present chapter and the portion of the civil law chapter dealing with contracts. The question of whether the rent is necessary thus making the contract enforceable up to the reasonable value of the rent must be answered by reference to the earlier material.

The students should deal with the question of whether Helen's marriage emancipates her to the extent that it relieves her parents of their obligations of support and whether the fact that she is separated from her husband has any effect on that determination.

The question of Herbert's obligations to Helen must be dealt with not only on the assumption that the marriage is valid but also in light of the fact that Herbert would be liable for the cost incurred in connection with the birth of the child together with the child's support even if the two are not legally married.

The possibility of Herbert's having committed the crime of perjury or the crime of contributing to the delinquency of a minor should be reviewed with reference to this chapter and the chapter on crimes.

DISCUSSION OF PROBLEM 2

Many of the issues raised by this question overlap the discussion of Problem 1. However, the element of the termination of the marriage is added. While dissolution of a marriage is at best an unpleasant subject, it is a necessary part of the laws regulating relationships within the society. Since the issue of dissolution cannot be ducked in the practical world, it would hardly be of use to the students to duck it here.

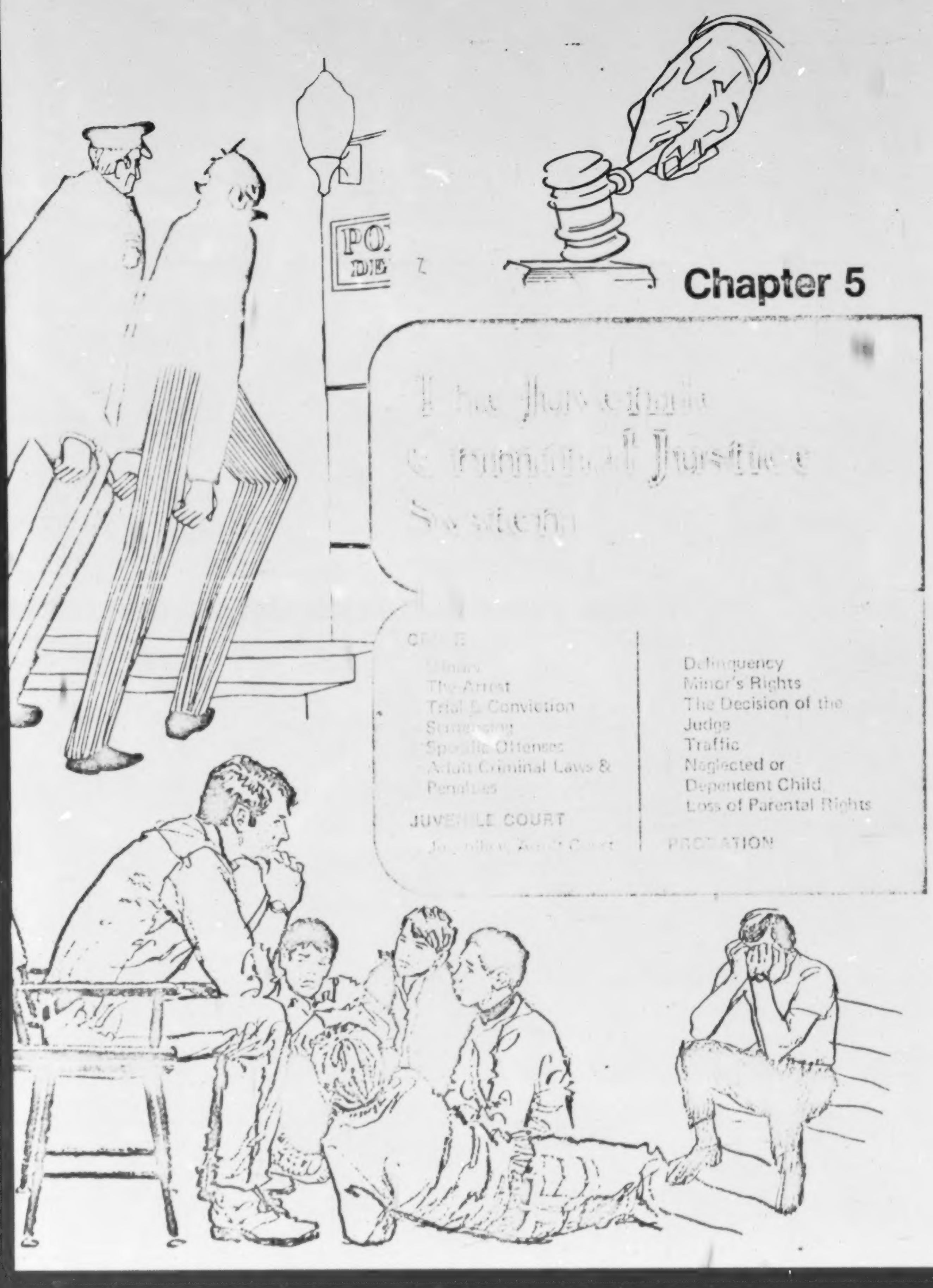
The first question students must discuss is the validity of the marriage in the neighboring state and Minnesota. Note the normal rule and the fact that the license was obtained under false representation. This suggests the possibility that annulment may be available. However, note that the parties have lived together after Mary reached the age of consent and that they had a child. Note also that no one has tried such intermediate steps as marriage counseling or social service intervention.

A discussion of reasons for dissolution might include alcoholism, desertion and conduct detrimental to the marriage relationship. Note the rule for desertion, the difficulty of proving alcoholism unless it is prolonged, and the fact that when a marriage is irretrievably broken, the legal system attempts to make the break as untraumatic and clean as possible. This benefits all parties involved and the community. Thus, the third ground is probably the best.

In discussing the dissolution students should note the problems raised in Section F. At this point you might want to add a figure for Scott's income and note the fact that Mary has not been working, though she is capable of doing so. You may want to have the students draft the conditions of an approved dissolution order specifying custody, support amount, restoration of maiden name and the division of the property of the marriage. You might assign someone to obtain the actual applicable statutes for guidance. Should Mary be awarded alimony?

As to the inherited property sale, the question of Scott's consent turns on a determination of the validity of the marriage. The property was acquired during the marriage. If the marriage was invalid to begin with Scott may not be able to block the sale by not consenting. If Mary must seek termination of the marriage by dissolution because it has been validated, Scott may be able to block the sale until the court makes a final determination as to the ownership of the property.

Finally, note that Mary could enforce the support order of the court by bringing a criminal action against Scott through the county attorney's office or by civil suit. Beyond that, review of the emancipation materials in this chapter and Chapter II will aid discussion of whether or not Mary's parents have any continuing obligation to her.



Chapter 5

The Juvenile & Criminal Justice System

CRIME
- Minors
- The Arrest
- Trial & Conviction
- Sentencing
- Specific Offenses
- Adult Criminal Laws & Penalties

JUVENILE COURT
- Jurisdiction, Adult Court
- Delinquency
- Minor's Rights
- The Decision of the Judge
- Traffic
- Neglected or Dependent Child
- Loss of Parental Rights

PROBATION

Chapter 5

The Juvenile Criminal Justice System

CRIME

- Minors
- The Arrest
- Trial & Conviction
- Sentencing
- Specific Offenses
- Adult Criminal Laws & Penalties

JUVENILE COURT

- Juvenile v. Adult Court

- Delinquency
- Minor's Rights
- The Decision of the Judge
- Traffic
- Neglected or Dependent Child
- Loss of Parental Rights

PROBATION

Roger, a 13-year-old with a record as troublemaker, is greeted at the front door of his family's home by two uniformed police officers who claim he stole a car that was found smashed into a school's loading dock. The car owner claims the TV set in the back seat was removed.

Before he says anything what should he know about his rights?

Can the officers question him?

Can they search for the TV?

What might be some possible steps in Roger's case?

INTRODUCTION

As we learned in Chapter I on the civil law, criminal laws have a dual purpose. They seek to regulate the conduct of an individual within society by defining certain kinds of behavior which society will not tolerate. The expression of the limits of approved behavior protects the interests of the vast majority of citizens who are law-abiding. Criminal laws also provide a punishment if the individual's conduct falls within one of these prohibited types of behavior. If you violate a criminal law, you may be arrested, tried, convicted and punished by the State.

The definition of prohibited behavior has been assigned in our society to legislative bodies at the federal, state and local levels. For example, in Minnesota an act is not a crime unless a legislative body has said it is. These bodies also provide general guidelines as to the punishment for each offense. The enforcement of these laws is left to the police, the court systems, and the correctional authorities.

This chapter will give you some idea of what is a crime and the various things that do or can occur when a person is arrested for committing a crime. Particular emphasis has been placed on the rights of the individual in the system. You will note that here, as in the civil law, a young person may be treated the same as anybody else or given certain additional safeguards, depending on the circumstances. The first section also contains some explanation of crimes or unlawful acts young people most frequently become involved in and a chart of adult criminal laws in Minnesota.

SELF-QUIZ

Before you read the chapter, try the following quiz. Answer the questions as best you can, based on your general knowledge. When you have read the chapter, go back to see whether you have changed your mind about any of the answers.

1. A crime is any act for which you can be arrested or given a ticket. ____True ____False
2. A 14-year-old may be tried for murder in Minnesota and sentenced to prison. ____True ____False

3. In deciding whether a 16-year-old should be tried as a juvenile or as an adult, a judge considers only the young person's maturity and past record. ____True ____False

4. If a young person under 18 is tried as an adult, he or she must be put in prison like an adult. ____True ____False

5. A young person accused of a crime has a strict right to a lawyer, and unless he has an opportunity to have legal counsel, no testimony given by him can be used as evidence against him. ____True ____False

6. When someone starts a fight with you, you have the right to defend yourself by any means available.

   ____True ____False

7. Painting your class numerals on the town water tower, a railroad bridge or the walls of the school can be a felony. ____True ____False

8. Helping a friend hide from the police can subject you to the same degree of criminal responsibility as your friend. ____True ____False

9. Your father gives you two eight-dollar tickets to a Vikings game. You find later that you cannot go. It is not illegal for you to sell them to a friend for $20. ____True ____False

10. In an exchange of shots during an armed robbery, one of

the holdup men misses his target and kills his fellow robber. He can be convicted of murder. _____ True _____ False

11. The term "juvenile court" refers to a special set of rules that judges must use when young persons are accused of crime or have family problems. _____ True _____ False

12. The minimum age for a young person to appear in juvenile court is 16. _____ True _____ False

13. Young persons may go to juvenile court if they need a judge's permission to get married or they are abandoned by their parents. _____ True _____ False

14. One of the rights afforded young people in the juvenile court is the right to refuse to be tried as a juvenile. _____ True _____ False

15. If all evidence at the delinquency hearing in the juvenile court points to that young person being a delinquent, the judge must remove the young person from the parent's custody. _____ True _____ False

16. You cannot appeal a finding of delinquency by the juvenile court. _____ True _____ False

17. The juvenile court may terminate the rights of parents if they refuse to provide necessary care and support. _____ True _____ False

18. A juvenile court judge may recommend suspension or cancellation of your license for serious traffic offenses.

____True ____False

19. The court cannot order a physical or mental examination unless the young person agrees if he claims he is not delinquent. ____True ____False

20. The sole function of the probation officer is to "spy" on people placed on probation. ____True ____False

21. A probation officer can take a person into custody on his own if that person violates the terms of his probation.

____True ____False

EDUCATIONAL OBJECTIVES
CHAPTER V: THE JUVENILE CRIMINAL JUSTICE SYSTEM

Each student will be able to:

1. Define a crime and give at least three examples of a crime.
2. Define and give three examples of:
   a. Felony
   b. Misdemeanor
   c. Gross misdemeanor
   d. Petty misdemeanor
3. Identify at least one condition under which a youth under 14 can be charged with a crime.
4. Identify what protection a minor receives from the Fifth Amendment of the U.S. Constitution.
5. Identify the difference between arrest and custody of a minor.
6. Identify at least one difference in punishment between a minor and adult.
7. Identify at least four specific offenses that are crimes for minors.
8. Identify at least three adult crimes; define each one and identify the maximum penalty.
9. Identify at least two major differences between a juvenile court and adult court and explain a reason for the difference.
10. Explain the policy considerations behind having separate courts for minors.
11. Define a delinquent and trace a possible route through commitment to an institution.

12. Identify at least four safeguards to insure a minor's rights during juvenile court proceedings.

13. Identify one way the court can handle a dependent or neglected child.

14. Identify at least three duties of probation officers.

V. CRIME & JUVENILE COURT

A. Crime

WHAT IS A CRIME?

Minnesota law defines a crime as any conduct which is forbidden by a statute and for which a person may be sentenced to prison. (Minn. Stat. Sec. 609.02) There are three different types of crimes:

1. Felonies - crimes punishable by more than one year in prison.
2. Misdemeanors - crimes punishable by a jail sentence of not more than 90 days or a fine of not more than $300, or both.
3. Gross Misdemeanors - all other crimes; in other words, crimes punishable by a sentence of 91 days to one year or a fine of more than $300, or both. (Minn. Stat. Sec. 609.02)

IS IT A CRIME TO PARK IN A NO-PARKING ZONE?

No. This and other minor traffic violations and other minor offenses are not crimes at all. Instead, they are called petty misdemeanors, and are defined as conduct forbidden by a statute and punishable by a fine of not more than $100 and no jail sentence. (Minn. Stat. Sec. 609.02)

1. Minors

WHAT HAPPENS IF A MINOR BREAKS A LAW?

The law says that a minor under 14 is not capable of committing a crime and cannot be prosecuted, tried, or punished for breaking a law. (Minn. Stat. Sec. 609.055) However, the juvenile court can find that a person under 14 who has broken a law is a delinquent child. (Minn. Stat. Sec. 260.015) Teenagers between the ages of 14 and 18 may be prosecuted for a crime just like adults if the juvenile court, after a hearing for that purpose, decides that they should be. (Minn. Stat. Sec. 260.125) However, unless the juvenile court judge decides to refer the case for criminal prosecution, it will be treated like the case of a younger minor and there will be a delinquency proceeding in the juvenile court. (Minn. Stat. Sec. 260.111) (This proceeding will be discussed in Section B.) Unless the judge does decide that the juvenile should be prosecuted as an adult, the juvenile has not committed a crime. (Minn. Stat. Sec. 260.215) Whether the judge decides to refer the case for adult criminal prosecution depends on whether he thinks the minor is suitable for rehabilitation and treatment and whether he thinks the public's safety might be endangered if the minor were treated as a juvenile. (Minn. Stat. Sec. 260.125)

2. The Arrest

WHAT ARE A MINOR'S RIGHTS BEFORE HE OR SHE IS ARRESTED?

The Supreme Court of the United States has most often defined pre-arrest rights in terms of limits beyond which the police may not go. The setting of these limits, based on interpretation of appropriate sections of the Bill of Rights in the *United States Constitution*, is a whole body of law within the criminal law known as criminal procedure. The Supreme Court being the final interpreter of the Constitution, state courts are bound by Supreme Court interpretation of the law.

Criminal procedure is a complex and ever-changing body of law whose safeguards were extended to minors by the Court in *In re Gault* 387 U.S. 1 (1967). (The *Gault* decision will be discussed in greater detail in Section B.) However, it is possible to make some general statements regarding adults' and minors' rights during the arrest process. We will attempt to discuss a few of these. For example, an arrest can be made only in several prescribed ways: by warrant (a document signed by a judge ordering the authorities to arrest a named individual and stating the reasons); by the officer apprehending you after observing you commit a crime; or when an officer does not see you commit a *felony*, but he has *probable cause* to believe that you did. Probable cause is defined as: ". . . a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man in believing the accused to be guilty." In other words, an officer at the scene of a bank robbery who sees an armed man running up the block with a bank sack would have probable cause to apprehend and arrest that man as the bank robber. Police may also make an arrest any place in the state without a warrant if they are in fresh pursuit of a suspect observed committing a crime or who they have probable cause to believe has committed a crime.

IF THE POLICE ACCUSE ME OF COMMITTING A CRIME, DO I HAVE TO ANSWER THEIR QUESTIONS?

No. The Fifth Amendment of the United States Constitution says that no person can be forced to incriminate himself. This means that he doesn't have to admit his guilt or explain his actions or give the police an alibi unless he wants to. In fact, if the police accuse you of a crime, they must warn you of your rights under the Constitution. They must tell you that you have the right to remain silent and not to answer any of their questions at all; that if you do answer anything, your answers can and will be used against you; that you have a right to have a lawyer present during the questioning; that if you can't afford a lawyer, one will be appointed for you without charge. If they fail to tell you these things and you answer their questions, they could not use your statements as evidence against you, although you could still be found guilty of a crime based on other evidence. (Miranda v. Arizona, 384 U.S. 436 (1966)) Remember that if you do answer or volunteer information, you waive your rights and the statements may be used against you. (For a description of your rights in a non-criminal proceeding or delinquency proceeding in juvenile court, see Section B.)

CAN I BE ARRESTED "ON SUSPICION" OR "FOR INVESTIGATION"?

No. The Minnesota Supreme Court has indicated that this is strictly prohibited, though police sometimes arrest persons "on suspicion" even when they have witnessed the crime. (State v. Mitchell 285 Minn. 153, 172 N.W. 2d 66 (1969))

UNDER WHAT CONDITIONS CAN THE POLICE SEARCH ME OR MY PROPERTY?

Again, the Court has defined limits beyond which the police may not go, depending on the circumstances. If a police man stops you on the street without arresting you, he can search your person only if your conduct and his experience lead him to believe that criminal activity may be going on and that you are armed and dangerous to him or others. Even then he is limited to patting down your outer clothing for weapons and cannot go further unless he feels something that may be a weapon.

Recently the United States Supreme Court has ruled that as soon as you are legally arrested or taken into police custody, the police can conduct a full search of your person. This decision was reached in a case where heroin was found on a man stopped and arrested for driving while his license was suspended. (United States v. Robinson, 414 U.S. 218 (1973)) Under previous interpretations, police officers could not use arrest for a traffic violation to justify a full search of an individual or his car.

Searches can also be initiated by the police through regular or "no-knock" warrants. A search warrant is a document signed by a judge allowing the authorities to search a specific place for specified (and sometimes related) items; a "no-knock" warrant allows the authorities to conduct the search without announcing themselves beforehand, because evidence can be easily removed or destroyed or because people would be endangered otherwise, or because suspects could escape. Searches without warrants, like arrests without warrants, must be based on probable cause. These searches usually must be limited to the suspect and the immediate area around him. Police officers can also search an automobile without a warrant if they have probable cause to do so and the car can be driven away. Of course, the police can search you if you consent to the search or when you are to be confined in custody, and they can seize any incriminating evidence that is in plain sight.

IF I BREAK A LAW, CAN I BE ARRESTED?

The police can take you into custody, but it is not called an arrest. (Minn. Stat. Sec. 260.165) This means that you will not have an arrest record and that you can later truthfully say that you have never been arrested.

IF I AM TAKEN INTO CUSTODY, CAN I BE PUT IN JAIL?

Minors cannot be kept in the same room in a jail as an adult offender, but they can be put in a separate room in a jail or police station. (*Minn. Stat.* Sec. 260.175)

3. Trial & Conviction

IF I AM TAKEN INTO CUSTODY FOR HAVING COMMITTED A CRIME, WILL I GO TO ADULT COURT?

No. If you were under 18 at the time of the commission of the alleged offense you must be brought before the juvenile court initially. (*Minn. Stat.* Secs. 260.111, .115 and *State v. Dugan*, opinion filed October 12, 1973) The judge would then make a decision, after a hearing for that purpose based on all the circumstances, whether to refer your case for adult criminal prosecution or to retain your case in the juvenile criminal justice system. *Kent v. United States*, 383 U.S. 541 (1966) We will examine the juvenile court and the options left to its officers in greater detail in Section B.

4. Sentencing

IF I BREAK A LAW AND THE JUDGE REFERS MY CASE FOR CRIMINAL PROSECUTION, WOULD I BE SENTENCED TO PRISON AS AN ADULT?

Not exactly. When a person under 18 is convicted of a felony or a gross misdemeanor, unless the penalty for the crime is life imprisonment, the judge must commit the person to the Minnesota Corrections Authority. The minor must be sentenced to the Authority for the maximum amount of time that he could be sentenced to prison if he were an adult. (*Minn. Stat.* Secs. 242.12 and .13)

IF THE JUDGE HAS TO SENTENCE A MINOR FOR THE MAXIMUM NUMBER OF YEARS THE LAW ALLOWS, DOES THE MINOR HAVE TO STAY IN CUSTODY FOR THE WHOLE TIME?

Not necessarily. Probation and parole are available. When a person under the custody of the Minnesota Corrections Authority reaches the age of 21, he must be released even if the term of his sentence isn't over unless the Authority decides that he is dangerous to the public. (*Minn. Stat.* Secs. 242.25 and .27)

WHAT IS THE MINNESOTA CORRECTIONS AUTHORITY (MCA)?

It is a board made up of five members, four of whom are appointed by the Governor. The Chairman of the Authority is appointed by the Commissioner of Corrections. They are in charge of confinement, rehabilitation and probation for adult and juvenile offenders. (*Minn. Stat.* Secs. 242.03, .04, .045 and .10)

ARE MINORS PUT IN PRISON WITH ADULTS?

They can be but they usually aren't. After a minor is committed to the Minnesota Corrections Authority, he is sent to a reception center for medical and psychological examinations. (*Minn. Stat.* Secs. 242.18 and .385) The Authority may arrange for transfer of the person to a mental hospital if necessary, place him on probation or place him in a conservation camp. (*Minn. Stat.* Secs. 242.19, .22, .29 and .37) A minor can also be sent to a prison, reformatory or state home school for boys or girls. (*Minn. Stat.* Secs. 242.19 (b) and 609.105) Where the minor is sent depends on the circumstances of the individual case.

5. Specific Offenses

CAN I GET INTO TROUBLE FOR FIGHTING?

Yes. It is a misdemeanor (assault) to injure or try to injure another person or to purposely make him afraid that you will hurt him. (*Minn.* *Stat.* Sec. 609.22) If you use a knife or other dangerous weapon in a fight, you may be guilty of the felony of aggravated assult, a very serious crime. (*Minn.* *Stat.* Sec. 609.225) If you fight in a public place where you know it will bother or disturb other people, you could be convicted of disorderly conduct, a misdemeanor. (*Minn.* *Stat.* Sec. 609.72)

DOES THIS MEAN THAT IF SOMEBODY HITS ME, I CAN'T HIT HIM BACK?

You have the right to hit him or use other "reasonable force" against him if it is necessary to protect yourself or someone else from an attack. However, you can't use more force than is necessary to protect yourself and can't really hurt the other person unless you are in danger, even if he does start the fight. (*Minn.* *Stat.* Sec. 609.06)

IS IT ILLEGAL TO DEMONSTRATE?

No. In general peaceful demonstrations are legal, but there are some limits. It is a misdemeanor for more than three people to gather if they intend to do something illegal by force, if they intend to disturb the public peace or if they are actually disorderly and disturb people. (Minn. Stat. Sec. 609.705) If a group like this uses violence, its members are guilty of a crime of rioting, and may be imprisoned for a year or fined $1,000 or both. If one of the people in the group is armed with a dangerous weapon, he can be imprisoned for five years or fined $5,000 or both. (Minn. Stat. Sec. 609.71)

WHAT IS THE PENALTY FOR BOMBING?

If the bomb actually goes off and damages property and causes danger of death or great injury to anyone, the person setting the bomb is guilty of aggravated arson and could be imprisoned for 15 years, fined $15,000 or both. (Minn. Stat. Sec. 609.56) If the bomb only damages property and doesn't endanger anybody, the bomber is guilty of simple arson and can be imprisoned for three years or fined $3,000 or both if the amount of damage done is over $100. (Minn. Stat. Sec. 609.565) If a person sets a bomb or explosives with intent to damage something or blow it up and the bomb doesn't go off, he is still guilty of attempted arson or attempted aggravated arson. (Minn. Stat. Sec. 609.57)

CAN I GET IN TROUBLE IF AS A JOKE I CALL UP SOMEBODY AND TELL HIM THERE IS A BOMB PLANTED IN HIS BUILDING?

Yes. It is a felony to make false bomb threats. If you simply tell him a bomb is present, you could be sentenced to imprisonment for three years; and if you threaten to plant a bomb yourself, you could be imprisoned for five years. (Minn. Stat. Sec. 609.713)

WHAT IS MALICIOUS MISCHIEF?

There is no offense with this name in Minnesota, but the phrase is often used to mean intentionally damaging the property of another person. This is a felony if you cause more than $100 worth of damage, endanger someone or destroy property owned by a public utility (e.g., the telephone company) and is punishable by imprisonment for five years or a fine of $5,000 or both. (Minn. Stat. Sec. 609.595)

CAN I GET IN TROUBLE FOR HIDING A FRIEND FROM THE POLICE?

Yes. If your friend has committed a felony and you hide him from the police, you have committed a felony too and could be imprisoned for three years or fined $3,000 or both. If your friend has committed a misdemeanor, you would be guilty of a misdemeanor too. (Minn. Stat. Sec. 609.495)

IF I GET ANGRY AND THREATEN SOMEBODY, AM I GUILTY OF A CRIME?

You might be. It is a misdemeanor to threaten to injure someone or his property or to threaten to tell his secrets to others, if the threat is made to get him to do something he doesn't want to do or to keep him from doing something he does want to do. (Minn. Stat. Sec. 609.27)

IS IT ILLEGAL FOR ME TO HAVE INTERCOURSE WITH MY GIRL FRIEND?

It is illegal for anyone to have sexual intercourse with a person who is not one's husband or wife. (Minn. Stat. Sec. 609.34) This is a misdemeanor. It is also illegal for any man to have sexual intercourse with a girl under 18. If she is between the ages of 16 and 18, and you are over 18, you could be imprisoned for three years. If she is between the ages of 14 and 16, you could be imprisoned for five years regardless of your age. This crime is often called statutory rape. (Minn. Stat. Sec. 609.295)

IS IT ILLEGAL TO GO AWAY WITH MY GIRL FRIEND EVEN IF WE ARE GOING TO GET MARRIED?

Yes. If she is under 18 and you take her away to get married without her parents' consent, you are guilty of abduction, a gross misdemeanor. (Minn. Stat. Sec. 609.265)

IF MY GIRL FRIEND GETS PREGNANT, CAN I BE ARRESTED?

No, not for the pregnancy; however, note above the misdemeanor of having intercourse with someone who is not your spouse. You might have to pay for her expenses, and the expenses of the child (see Chapter I on paternity). However, it is a crime, punishable by imprisonment for two years or a fine of $2,000 or both, to leave the state if you know that your girl friend is pregnant and leave in order to avoid having to pay. (*Minn. Stat.* Sec. 609.31)

IS IT A CRIME TO WRITE A BAD CHECK?

Not if you really intended to pay your bill and just balanced your checkbook incorrectly or were temporarily short of money. It is a misdemeanor to write a bad check if you didn't intend to pay your debt. It is evidence that you never intended to pay if you fail to make up an overdraft within 5 days after getting notice of it. (*Minn. Stat.* Sec. 609.535)

WHAT IS THE PENALTY FOR JOYRIDING IN A CAR?

If you simply take somebody's car for a drive without his consent, you are guilty of unauthorized use of a motor vehicle, which is punishable by imprisonment for three years or a fine of $3,000 or both. (*Minn. Stat.* Sec. 609.55) If you take somebody else's car and intend to keep it or sell it instead of returning it after a ride, you are guilty of theft and could be imprisoned for up to five to ten years, depending on the value of the automobile. (*Minn. Stat.* Sec. 609.52)

IS IT ILLEGAL TO BUY SOMETHING WHICH I THINK IS STOLEN?

Yes. It is theft to intentionally receive or buy stolen property. (*Minn. Stat.* Sec. 609.53)

IF I FIND MONEY OR SOMETHING ELSE VALUABLE, DO I HAVE TO TRY TO FIND THE OWNER?

Yes. It is theft to keep lost property without making a reasonable effort to find the real owner and return it to him. (Minn. Stat. Sec. 609.52)

WHAT CAN HAPPEN IF I USE SOMEBODY ELSE'S CREDIT CARD WITHOUT PERMISSION?

You would be guilty of misusing a credit card, which is a misdemeanor. (Minn. Stat. Sec. 609.545) You could also be found guilty of theft. (Minn. Stat. Sec. 609.52)

DOES THEFT INCLUDE SHOPLIFTING?

Yes. (Minn. Stat. Sec. 609.52)

IS IT ILLEGAL TO SEW AN AMERICAN FLAG ON MY CLOTHES?

Probably not, although the Minnesota Supreme Court has never had a case like this. It is a misdemeanor to publicly mutilate, defile or cast contempt on the flag or to display a flag if you have put any word, mark, or design on it. (Minn. Stat. Sec. 609.40) This probably applies only to conduct which is actually disrespectful. It is not clear whether it applies to flying a flag upside down for a protest.

IF I CALL SOMEBODY IN THE MIDDLE OF THE NIGHT AND HANG UP, CAN I GET IN TROUBLE EVEN THOUGH IT IS ONLY A JOKE?

Yes. It is a misdemeanor to call another person and hang up without giving your name if you intend to harass or annoy another person. (*Minn. Stat.* Sec. 609.79)

WHAT OTHER CRIMES SHOULD I KNOW ABOUT?

It is a misdemeanor to:

1. Make a false report of a crime to the police (*Minn. Stat.* Sec. 609.505)
2. Interfere with firemen who are trying to put out a fire (*Minn. Stat.* Sec. 609.60)
3. Remove the serial number or identification number from any property if you do so to keep people from being able to identify it (*Minn. Stat.* Sec. 609.655)
4. Litter, whether on public or private land (*Minn. Stat.* Sec. 609.68)
5. Refuse to leave someone's land when he tells you to do so (*Minn. Stat.* Sec. 609.605)
6. Scalp tickets (sell them for a higher price than the price charged for admission by the people putting on the event) (*Minn. Stat.* Sec. 609.805)

MOST COMMON FELONIES AND THEIR PENALTIES

Offense	Statute Section	Penalty (Maximum)
Murder		
First Degree (Pre-planned or committed during a rape)	609.185	Life Imprisonment
Second Degree (Intentional)	609.19	40 Years
Third Degree (Non-intentional killing during a felony or while doing something very dangerous)	609.195	25 Years
Manslaughter		
First Degree (Intentional killing in heat of passion or non-intentional killing while committing a violent crime)	609.20	15 Years/$15,000
Second Degree (Non-intentional killing as a result of a very careless act)	609.205	7 Years/$7,000
Criminal Negligence (Negligent killing with a car, plane, or boat)	609.21	5 Years/$5,000
Aggravated Assault (Causing great bodily harm to another)	609.225	10 Years/$10,000
Assault with a weapon	609.225	5 Years/$5,000
Simple Robbery (Taking property of another by force)	609.24	10 Years/$10,000

Offense	Statute Section	Penalty (Maximum)
Aggravated Robbery (Robbery while armed or if great bodily harm is inflicted on the victim)	609.245	20 Years/$20,000
Kidnapping (If victim released without great bodily harm)	609.25	20 Years/$20,000
Otherwise	609.25	40 Years/$40,000
Aggravated Rape Or Sodomy (Forcing another to engage in sexual relations)	609.291	
	609.293	30 Years
Bribery (Giving or accepting bribes, involving a public official or a witness)	609.42	10 Years/$10,000
Perjury (Lying under oath)	609.48	5 Years/$5,000
Theft (If property worth more than $2,500)	609.52	10 Years/$10,000
(If $100 - $2,500)	609.52	5 Years/$5,000
(If explosives used)	609.52	10 Years/$10,000
Aggravated Arson (Causing danger to others)	609.56	25 Years/$25,000
Simple Arson (If property value over $100)	609.565	5 Years/$5,000
Burglary (Breaking and entering to commit a crime)	609.58	20 Years/$20,000

Offense	Statute Section	Penalty (Maximum)
(If done in a dwelling, or burglar possesses a weapon or tool, or burglar commits an assault in an occupied dwelling)	609.52	10 Years/$10,000
(If intent to steal or commit a felony)	609.52	5 Years/$5,000
Forgery		
Aggravated	609.625	10 Years/$10,000
Simple	609.63	3 Years/$3,000

B. Juvenile Court

We will now explore one institution of the juvenile criminal justice system which was designed to meet specifically the needs of the young - the juvenile court. We will see that once a determination is made that a young person should be treated as a young person in the eyes of the law, he or she is afforded more individualized and protective care in the juvenile court than an adult normally receives in the regular court system. You will find that this is an area of strict safeguards but wide flexibility within the law, which is exactly both how and why it was written.

1. Juvenile vs. Adult Court

WHAT IS JUVENILE COURT?

Juvenile court is not a separate court building or even a special judge in many places. The phrase really refers to a special set of rules that judges must use when a minor is accused of breaking the law or has family problems that come to court. In rural counties the county court has authority to handle juvenile cases. (*Minn.* *Stat.* Sec. 487.14) In larger counties the juvenile court is a part of the district court, which is a general court and handles most of the cases of all kinds in the state. In the larger counties one judge is assigned to hear all juvenile matters, though he may have the help of referees to whom he "refers" cases. (*Minn.* *Stat.* Secs. 260.021 and .022)

WHY IS THERE A SPECIAL SET OF RULES FOR JUVENILE COURT ?

The juvenile court is set up so that the problems of minors can be treated informally and privately so that a minor will not be labeled a criminal for a less serious offense. There is also a need for a court which can help parents and their children settle family problems in a peaceful way. The law establishing the juvenile courts says that its purpose is to:

> ". . . secure for each minor under the jurisdiction of the court the care and guidance, preferably in his own home, as will serve the spiritual, emotional, mental, and physical welfare of the minor and the best interests of the state; to preserve and strengthen the minor's family ties whenever possible, removing him from the custody of his parents only when his welfare or safety and protection of the public cannot be adequately safeguarded without removal; and when the minor is removed from his own family, to secure for him custody, care and discipline as nearly as possible equivalent to that which should have been given by his parents." (*Minn.* *Stat.* Sec. 260.011)

WHY DOES A PERSON GO TO JUVENILE COURT?

A person may go to juvenile court if:

1. It is claimed that he is delinquent
2. It is claimed that he is a neglected child
3. It is claimed that he is a dependent child
4. It is claimed that he is a juvenile traffic offender
5. It is claimed that his parents' rights to custody should be terminated
6. Someone wants to adopt him
7. He needs judicial consent to get married
8. He is charged with contributing to the delinquency of a minor
9. He is charged with a traffic offense.

(Minn. Stat. Secs. 260.111, .193 and .261)

2. Delinquency

WHAT IS A DELINQUENT CHILD?

A delinquent child is any person under 18 who has violated a federal law, any state law, or any local ordinance except a traffice ordinance; who is a habitual truant; who is so disobedient that his parents can't control him; or who habitually does things which are dangerous to himself or others. (Minn. Stat. Sec. 260.015 (5))

WHAT HAPPENS IF I AM CHARGED WITH DELINQUENCY?

That depends upon the seriousness of the offense. If it is a very minor offense you might not have to go to juvenile court at all; instead the local police or probation officer might simply warn you or your parents.

If the offense is more serious, if you have broken a law or run away or if the juvenile court judge orders it, you can be taken into custody by the police. (Minn. Stat. Sec. 260.165) Normally you would be immediately released to your parents if they promised to make sure that you would show up for a juvenile court hearing. However, if it is necessary to protect the community or to protect you, the authorities can keep you in a detention home, a foster home, an M. C. A. reception center or a jail for 24 to 48 hours while they decide what action should be taken. (Minn. Stat. Secs. 260.171 and .175)

WHAT HAPPENS THEN?

The authorities, your parents or any other person could file a petition (a formal legal paper) saying that you are delinquent. If this happens the juvenile court must have a delinquency hearing. (Minn. Stat. Secs. 260.131 and .171) If no petition is filed, you must be released within 24 hours after you were taken into custody unless the juvenile court judge decides that you shall be detained for one more day. After two complete days (48 hours) you must be released even if a petition has been filed unless the judge decides that you should be kept in a detention home until the hearing. The judge may also allow your parents to give bail as a condition of your release; this means that if you don't come to the hearing the court will keep your parents' money. (*Minn.* *Stat.* Sec. 260.171)

WHAT HAPPENS WHEN I HAVE TO GO TO JUVENILE COURT FOR A DELINQUENCY CHARGE?

If a petition has been filed the juvenile court must give you and both your parents formal notice that you must come to juvenile court on a certain day for a hearing before the judge.

You and at least one of your parents must then go to court and appear before the juvenile court judge. There is no jury and the judge may exclude the public from the hearing room. The judge then listens to evidence from both sides and decides if the things claimed in the delinquency petition are true. Before he can find that you are a delinquent, the judge must believe that the county attorney has proved his case "beyond a reasonable doubt." This means that the evidence must be so strong that there is no other logical explanation for the evidence but that you "did it." (*Minn.* *Stat.* Sec. 260.155; *Minn. JCR* 5-4)

3. Minors Rights

DO I HAVE THE RIGHT TO A LAWYER IN A JUVENILE COURT HEARING?

Yes. The United States Supreme Court has decided that all minors have certain civil rights in delinquency cases if there is a possibility that they might be deprived of their liberty (placed in a detention home, state training school, etc.). This Supreme Court decision, In re Gault, 387 U.S. 1 (1967), required juvenile courts in all states to give juvenile offenders enough notice of the charges against them so that they can prepare a defense, to give juveniles and their parents notice that the child has a right to counsel, and to give the juvenile the right to cross examine the witnesses against him.

In that case Gerald Gault was charged with making obscene phone calls and admitted that he had done it when the police questioned him. The police did not tell him that he didn't have to answer their questions, that he had a right to a lawyer or that he might be confined in a state training school for six years for making the calls. At his hearing the woman who claimed he had made the obscene calls didn't even show up, but Gerald was sentenced to a state training school until he reached the age of 21. An adult could only have been fined $50 or imprisoned for 60 days for making obscene phone calls. The Supreme Court decided that juvenile offenders should have nearly the same rights as adults and forced the local authorities to release Gerald. The Court said that "The condition of being a boy does not justify a kangaroo court."

In 1970 the United States Supreme Court also decided that delinquency must be proved beyond a reasonable doubt, thus giving juveniles even more protection. (In the Matter of Winship, 397 U.S. 358 (1970))

Minnesota has obeyed the decisions of the Supreme Court and has enacted laws.and court rules which make clear that minors have the same rights as adults in most cases:

1. The parents and the juvenile must have notice of the charge. (Minn. Stat. Sec. 260.141)
2. The juvenile must be told that he has a right to a lawyer, and the judge must delay the hearing, if necessary, so that he can get one. The judge must appoint a free lawyer if the child cannot afford to hire one. (Minn. Stat. Sec. 260.155; Minn. JCR 5-1; Minn. JCR 2-11)
3. The juvenile must be told that he has the right to remain silent, that anything which he says may be used against him and that he may have a lawyer present during questioning; if these rules are violated any statements he makes will not be allowed in evidence at the hearing. (Minn. JCR 2-2)
4. The juvenile must be allowed to present evidence to show his side of the story and to cross-examine any people who testify against him. (Minn. Stat. Sec. 260.155 Minn. JCR 2-3)

5. The juvenile must be allowed to inspect any report filed with the court. (*Minn. JCR* 2-3)
6. The court cannot order a physical or mental examination unless the minor agrees if he claims that he is not delinquent. (*Minn. Stat.* Sec. 260.155)
7. The minor must be given a transcript of the hearing. (*Minn. JCR* 2-3)
8. A determination of delinquency cannot be made unless the juvenile is present. (*Minn. Stat.* Sec. 260.155 (5))
9. The court can appoint a temporary guardian to protect the interests of the juvenile if his parents cannot or will not do it. (*Minn. Stat.* Sec. 260.155)

The only major difference between the rules for a delinquency case and an adult criminal prosecution is that a juvenile does not have a right to a jury trial, public trial or indictment by a grand jury.

4. The Decision of the Judge

WHAT CAN THE JUDGE DO TO ME AFTER THE HEARING?

Even if the petition is true the judge may not have to enter a formal finding that you are delinquent. If the offense is fairly minor and you have admitted it or it has been proved at the hearing, the judge may still decide that it is best to handle the matter informally. He can delay the matter for two periods of up to 90 days each while supervising your home conditions or while you are undergoing physical or mental examination. If he decides that it is in your best interest he can then release you after counseling with you and your parents or put you on probation in your own home after establishing certain rules that you must obey. (Minn. Stat. Sec. 260.185 (g)(3))

WHAT CAN HAPPEN TO ME IF I AM FOUND DELINQUENT?

If he finds that you are delinquent the judge can:

1. Counsel with you and your parents.
2. Put you on probation in your home.
3. Transfer legal custody to a child placement agency, a county welfare board, a reputable person, a county home school or a group foster home.
4. Transfer legal custody to the Minnesota Corrections Authority who may put you on probation, send you to a state training school or send you to a group foster home.
5. Require you to pay for the damage if you have committed a crime resulting in damage to property.
6. Cancel your driver's license until you reach 18 if it is in the best interests of the public safety.
7. If you need special physical or mental care, order your parents to provide it. (Minn. Stat. Sec. 260.185)

HOW DOES THE JUDGE DECIDE WHICH OF THESE THINGS TO DO?

Before deciding, the court will order an investigation of your home life and background and may order a mental or physical examination. The judge also holds another hearing and listens to evidence to decide which type of treatment would be best. (Minn. Stat. Sec. 260.151; Minn. JCR 6-1 through 6-7) If the judge decides to put you on probation he will reconsider the decision at least once a year. The court may have control of you until you reach 21. (Minn. Stat. Sec. 260.185)

WHAT CAN I DO IF I THINK THE JUDGE MADE A MISTAKE IN FINDING ME DELINQUENT?

If you have new evidence you can ask the judge to hear the case again with that new evidence. If you simply think the judge was wrong but you have no new evidence you can appeal to a state district court or the state Supreme Court, depending upon the kind of juvenile court which made the decision. When you appeal you are asking a more powerful court to say that the first court made a mistake. (Minn. Stat. Secs. 260.281 and .291)

5. Traffic

WHAT IS A JUVENILE TRAFFIC OFFENDER?

A juvenile traffic offender is any person under 18 who violates a state traffic law or local traffic ordinance or who violates any "water traffic" (boating safety) law. If you are a traffic offender you can't be found delinquent but the procedures and rules are the same as in a delinquency case. (*Minn. Stat.* Sec. 260.193)

WHAT CAN THE JUDGE DO TO ME IF I BREAK A TRAFFIC LAW?

1. He can decide to treat you as an adult traffic offender if it would be better for you or for the public safety. This means that you could be fined or sent to jail.
2. He can reprimand you and counsel you and your parents.
3. He can limit the conditions under which you can drive a car or use a boat.
4. He can require you to go to a driver improvement school.
5. He can recommend that the driving license authorities suspend your license.
6. If you have committed two traffic violations or caused an accident involving death, bodily injury or serious property damage he can recommend that the licensing authorities cancel your license until you are 18 or until the judge decides that you should get it back.
7. He can put you on probation in your own home and set rules relating to your use of a motor vehicle. (*Minn. Stat.* Sec. 260.193)

6. Neglected or Dependent Child

WHAT IS A NEGLECTED CHILD?

A neglected child is a person who is under 18 and who has been *abandoned by his parents*; who is without proper care because of the way his parents treat him; who is without necessary food, shelter, education or other care because *his parents fail to provide it*; whose behavior, condition, job, or associates are dangerous to himself or others; or whose conduct is the same as that of a delinquent child but is caused by his *parents' neglect.*

WHAT IS A DEPENDENT CHILD?

A dependent child is a person who is under 18 and who has no parents or guardian, who needs special treatment for his physical or mental health which his parents are *unable* to provide or whose parents have asked that custody be given to another because they are *unable* to care for him. (*Minn. Stat.* Sec. 260.015 (6))

WHAT HAPPENS IF SOMEONE CLAIMS THAT I AM NEGLECTED OR DEPENDENT?

The procedures in these cases are nearly the same as in delinquency cases. There must be a petition, notice to the parents and a hearing before the juvenile court. The rules are a little different, for dependency and neglect only have to be proved by a preponderence of the evidence (the most logical explanation) and not beyond a reasonable doubt, and the juvenile does not have the right to remain silent. Both the parents and the minor do have a right to have a lawyer and have all of the other important rights that they would have in a delinquency case. (Minn. JCR 2-1, 2-2, 2-3)

WHAT CAN THE JUDGE DO TO ME IF HE FINDS THAT I AM DEPENDENT OR NEGLECTED?

The judge can order that:

1. You be placed under the supervision of the county welfare board or child placement agency in your own home under rules set by the judge.
2. Transfer legal custody to a child placement agency or the county welfare board so that they and not your parents are responsible for you.
3. If you are in need of special treatment or care for your mental or physical health, the court may order it provided by your parents or by someone else.

None of these orders may be for more than a year although the judge may review the situation, order an investigation and renew the order each year until you are 21. (Minn. Stat. Sec. 260.191)

7. Loss of Parental Rights

WHAT IS A TERMINATION OF THE PARENTS' RIGHT TO CUSTODY?

In certain very serious cases, the juvenile court has the power to completely end your parents' control over you and their responsibility for you. Termination cases are brought by petition and the procedure is very similar to that in delinquency proceedings. A notice and full hearing are required to protect both the parents and the minor. The court may terminate your parents rights if:

1. They have abandoned you.
2. They have continuously refused to give you necessary care.
3. They have the money to care for you but haven't supported you.
4. Their conduct is harmful to your health or morals.
5. You have previously been found dependent or neglected and your parents have failed to correct the problem.

(Minn. Stat. Secs. 260.221 and .231)

WHAT WILL THE JUDGE DO WITH ME IF MY PARENTS' RIGHTS ARE TERMINATED?

The judge can transfer guardianship and legal custody to:

1. The Minnesota Commissioner of Public Welfare.
2. A child placement agency.

3. Any other person of good character.

The person receiving custody will have all of the rights that your parents had before their rights were terminated.

C. Probation

WHAT IS THE PROBATION DEPARTMENT?

The probation department is a part of county government. All county courts and county boards appoint juvenile probation officers. (Minn. Stat. Sec. 260.311) In larger cities the Minnesota Department of Corrections also provides probation officers to assist the MCA and the juvenile courts. (Minn. Stat. Sec. 242.46)

WHAT DO PROBATION OFFICERS DO?

Probation officers have a number of duties. They must:

1. Carry out the orders of the juvenile court about minors placed on probation. (Minn. Stat. Sec. 260.34)
2. Make investigations for the juvenile court to decide how the minor should be treated. (Minn. Stat. Sec. 260.311)
3. Make investigations for the MCA to decide whether a minor should be put on probation. (Minn. Stat. Sec. 242.13)
4. Take charge of minors during a trial or hearing in juvenile court if the judge asks them to. (Minn. Stat. Sec. 260.311)

5. Supervise minors put on probation and parole. (*Minn. Stat.* Sec. 260.311)

6. Set up programs to prevent juvenile delinquency and crime. (*Minn. Stat.* Sec. 260.311)

7. Set up rehabilitation programs. (*Minn. Stat.* Sec. 260.311)

8. Cooperate with law enforcement agencies, schools, welfare agencies, and other groups in preventing crime and rehabilitating juveniles. (*Minn. Stat.* Sec. 260.311)

9. Act as peace officers and take juveniles into custody when necessary. (*Minn. Stat.* Secs. 260.311 and 242.34)

HOW DO PEOPLE GET PUT ON PROBATION?

You can be put on probation by the juvenile court judge if he finds you delinquent. (*Minn. Stat.* Sec. 260.185 (4)) Or you can be placed on probation after the judge has sentenced you to the custody of the MCA. (*Minn. Stat.* Sec. 242.13) In other words, probation is used where the authorities think that you would get along better and could be helped and rehabilitated more easily if you were kept at home under the care of the probation officer instead of being put into an institution. Probation is usually given for minor offenses.

WHAT DOES THE PROBATION OFFICER DO WHEN HE SUPERVISES ME?

He makes sure that you carry out the judge's orders. Commonly, he will make sure that you follow the "terms" of your probation. This may mean that he makes sure that you get home at certain times, attend school regularly, stay away from friends who get in trouble, etc. He will also try to counsel with you and help you with any problems you might have.

WHAT IF I DISOBEY THE PROBATION OFFICER?

The probation officer, if he thinks it is necessary, can take you into custody and bring the matter to the attention of the MCA or juvenile court judge. Then your probation might be revoked. (*Minn. Stat.* Sec. 242.34)

PROBLEM 1

Dan is 16 and works as a stock clerk in Mr. Grogan's grocery store. One Saturday night before closing, he slips an extra set of store keys into his pocket. He returns to the store after hours, taking two six-packs of beer, some snack food and the keys for the store's delivery truck, along with a credit card used to buy gas for the truck. After gassing up and riding around until the early hours of the morning he spots Jim, the guy who beat him out at halfback this fall, driving home from a date. He chases Jim with the truck and tries to run him off the road, but Jim outruns him in his car. Dan returns the truck to the store that morning. Mr. Grogan finds out about Dan's using the truck, fires him on the spot and says that he will bring in the police. Dan tells him that if it is reported, Dan and his friends will wreck Mr. Grogan's store.

1. What violations of statutes or ordinances did Dan commit?
2. How may these violations be punished?

Now let's add some facts about Dan. He is 16 and a senior in high school. He was an average student, but lately his grades have fallen off; he has "mouthed off" to teachers and he has acquired a new set of unsavory friends. He ignores his parents and was picked up a month ago for possession of beer. He was fined and given a warning on that violation.

Assuming he is taken into custody on the violations committed above:

3. If you were the judge, would you permit him to be tried as an adult? Why or why not?
4. Assume you are a member of the Minnesota Corrections Authority. Reception center evaluation of Dan has turned up no significant physical or mental problems. What program would you recommend for Dan?

PROBLEM 2

Now that you have read the material on the juvenile court, you know that within a framework imposed by the juvenile's rights, the court has a great deal of latitude in deciding what course of action is best for each child.

Pretend for a moment that you are a judge in the juvenile court in your community. How would you decide the following case?

Mary Beth is 16 and a junior in high school. When she was 12, her father separated from her mother and now lives in another state. He does not pay support, nor is it likely that if the district court attempted to enforce support he would be able to pay much. Mary Beth and her brother, Steve, age 6, appear well-cared for. Their mother obviously cares a great deal about them and is concerned with their situation, but she works to support the family, which takes a great deal of her time.

Mary Beth has been before the court previously. The first time was for shoplifting a small item when she was 14 and the last time was when she was returned to her home after running away for 6 weeks. This incident occurred right after her father had visited their home and beaten up on the children.

Last night, Mary Beth was spotted by the police wandering around Main Street at 11:30 p.m. They picked her up for a curfew violation. The school authorities report that she has been skipping school lately. The county welfare department has filed a petition to declare her delinquent.

Mary Beth states that she feels no one cares about or understands her. On the other hand, she says she knows her mother loves her, that she does not want to be taken from the home, and that she will try very hard to stay out of trouble if she is allowed to return home.

1. Should Mary Beth be determined a delinquent child? What are the alternatives to this determination?
2. If she is determined delinquent, what future course of action should be taken? If she is not determined delinquent, should the matter be dropped or are there other actions that should be taken?

PROBLEM 3

Refer to Problem 1 at the back of Chapter II. Again, assume you are the judge and must make the ultimate decision.

1. Should the rights of the parents be terminated? Can the welfare board be ordered to supervise the care of the children without termination of the parents' custody?
2. Thinking now about broad social policy, what two fundamental rights are in conflict? Which one seems to be dominant in this case? Do you believe this to be right?

TEACHER'S NOTES
CHAPTER V

Response to Self-Quiz should be as follows:

1. False (page 114)
2. True (page 115)
3. False (page 115)
4. False (pages 120 and 121)
5. True (pages 135, 136 and 137)
6. False (page 122)
7. True (page 124)
8. True (page 124)
9. False (page 128)
10. True (page 129) (Third degree murder)
11. True (page 132)
12. False (page 115)
13. True (page 133)
14. False (page 135 - 138)
15. False (page 139)
16. False (page 140)
17. True (page 144)
18. True (page 141 (The court is required to suspend licenses in certain cases, e.g. car theft.)

19. True (page 138)

20. False (pages 145 and 146)

21. True (page 147)

As we stated in the Introduction, juvenile criminal law is a rather flexible area of the law where solutions can be more readily molded to fit the requirements of each individual case. The guiding principle is protection of the rights and interests of children. Discussion of the problems should be open and rather free-wheeling, attempting to touch on the following points.

DISCUSSION OF PROBLEM 1

The first part of this problem is relatively easy in that the student need only "spot" the violations, name them, define the penalty, and decide how much of the maximum penalty should be exacted by the State. Some of the violations built into Dan's acts include petty theft, unauthorized use of a motor vehicle, possession of an alcoholic beverage, and misuse of (and possibly theft of) a credit card. In his attempts to run Jim off the road, Dan might be charged with the grave offense of attempted murder or a lesser charge such as aggravated assault or assault. Finally, it is a misdemeanor for Dan to threaten Mr. Grogan with destruction of his store if he calls in the police. Students may come up with other ideas as to what violations were committed or what penalties should be assessed against Dan.

The second part of the question invites discussion ranging over the whole choice of options open to the juvenile court judge. For Question 3, you might have the students help you list on the blackboard the options open to the judge, after which you could discuss each one. Remember that if the judge chooses not to refer Dan for adult criminal prosecution, he can exercise his option within the juvenile court system. If he refers Dan for adult criminal prosecution and if Dan is convicted on any charge, he would be placed in the custody of the MCA. Another whole range of options opens there which would be discussed under Question 4.

DISCUSSION OF PROBLEM 2

Guidelines:

1. Does Mary Beth fall under the legal definition of a delinquent child?
2. Should Mary Beth be given the record and the social stigma of being determined a delinquent, given the circumstances?
3. Would it be better to have her declared a neglected child or a dependent child? To handle the whole problem informally, without petition or determination?
4. Discuss alternative "treatment" strategies under a

delinquent determination, a neglected child or a dependent child determination, and informal action. Assess the probability of success of each strategy.

DISCUSSION OF PROBLEM 3

Guidelines:

1. Do the actions of Mr. and Mrs. Jones legally warrant termination of their parental rights? Are there any mitigating factors to be considered?
2. Are there alternatives to termination, and should they be applied in this case? Would any of the alternatives be just as effective, or more effective, in resolving the problems in the Jones' home. Match termination advantages against less traumatic, but still closely supervised alternatives.
3. It can be argued that most of the problems here stem from the Jones parents' religious beliefs. We are presented with an issue of freedom of religious belief versus society's interest in the welfare of children. Although there has been some difference of opinion between cases on this issue, in cases such as the Jones' case with regard to necessary medical treatment, the Supreme Court has come out on the side of the protection of children's interests.

Chapter 6

Alcohol, Tobacco, Drugs & Marijuana

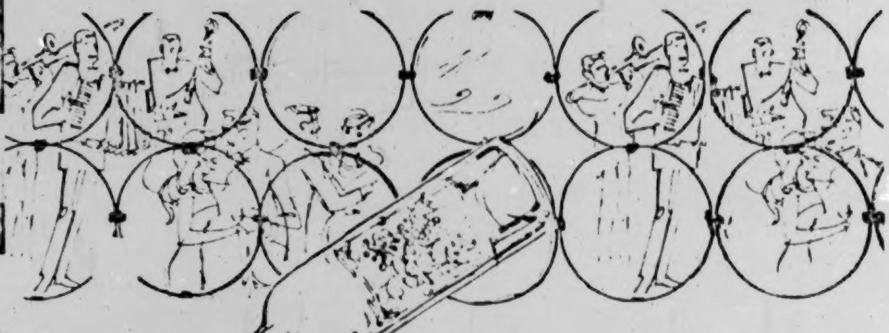
ALCOHOL

- Buying & Drinking
- Sale
- I.D.
- Possession
- Bars & Restaurants
- Drunkenness

TOBACCO

DRUGS & MARIJUANA

- Narcotics & Dangerous Drugs
- Narcotics Offenses & Penalties



Jerry is asked to let some classmates use his car for an hour. He knows that these particular persons have been involved in the local drug underground and he subsequently learns that they may be meeting in his car to distribute amphetamines ("speed"). He doesn't want to get involved but he gives them his keys.

> Does Jerry have any legal responsibility to report the meeting? (A clue to possible answers may be found in *Minn. Stat.* Sec. 609.05 (1).)
>
> Are there other obligations beyond possible legal responsibility which might compel Jerry to act?

INTRODUCTION

It is an obvious fact that young people of your age are more interested in participating in adult activities than ever before since Minnesota lowered the age of majority to 18 for most purposes. It is another fact that a great many adults drink or smoke or both. Most young people are very interested in these activities and some may already be experimenting with them for themselves. It is for this reason that a separate chapter on alcohol and tobacco has been added, so you might understand your rights and responsibilities while engaging in these activities as a minor and later, as an adult.

It is an unfortunate fact that some young people have become involved with drugs. This fact affects *all* young people's lives in some way or another. The purpose of Section C of this Chapter is not to moralize or sermonize, but to present the legal facts regarding drugs. With all the present attention paid to "the drug problem," you must realize by now all the consequences of drug use. It is up to you to draw the conclusions which are right for your own life which is the essence of adult responsibility.

SELF-QUIZ

1. An alcoholic beverage is any drink which can make people drunk when taken in large quantities.

   ____True ____False

2. Both malt liquor and 3.2 beer are intoxicating liquors of legal definition. ____True ____False

3. Strong beer, wine and "hard liquor" are intoxicating liquors by legal definition. ____True ____False

4. Under Minnesota law it is legal for anyone under 18 to drink 3.2 beer with parents both at home and at an establishment selling 3.2 beer.

   ____True ____False

5. Any minor who attempts to buy liquor or even enters a liquor store to attempt to buy can be charged with a criminal act called a misdemeanor. ____True ____False

6. Both owners and selling employees of a liquor store or bar can be charged with illegal selling of liquor or 3.2 beer to minors. ____True ____False

7. The owner of a liquor store or bar cannot lose his liquor license, but can have the license suspended if convicted of selling liquor to minors. ____True ____False

8. If an individual gets drunk and injures another person in a fight or vehicle accident, the seller of the liquor could be sued and forced to pay for all damages the buyer causes. ____True ____False

9. If a friend over 18 gives a minor either liquor or 3.2 beer, the law treats this as a sale of liquor or 3.2 beer. ____True ____False

10. A minor can be charged with a misdemeanor if he lies about or falsifies his real age by using identification [illegible] his own or uses altered identification. ____True ____False

11. An adult lending identification to a minor for purposes of buying or attempting to buy liquor can be charged with a misdemeanor. ____True ____False

12. Possession of liquor or 3.2 beer means in your hand or on your person. ____True ____False

13. "Open bottle law" pertains only to actual consuming liquor or 3.2 beer. ____True ____False

14. A minor may be charged with a misdemeanor for entering a dance hall or food establishment that serves liquor or 3.2 beer. ____True ____False

15. The law forbids minors without parents to loiter on the same premises where 3.2 beer or liquor is served unless the establishment has a separate room where alcoholic beverages are not served. ____True ____False

16. Mr. Otis invites some close friends over for an evening of "wining and dining." One of the adult guests has "too many" and while driving home is involved in a traffic accident causing personal injury and property damage. If the driver is determined to be the cause he and the host of the evening can be sued for damages.

____True ____False

17. Anyone under 18 who is carrying cigarettes on his person is breaking the law. ____True ____False

18. If a doctor prescribes L.S.D., the patient may legally use it. ____True ____False

19. Selling drugs and giving them away are considered the same under the law. ____True ____False

20. Letting a friend try your codeine cough syrup to cure his cough is illegal even though you have a doctor's prescription. ____True ____False

21. Marijuana may be used in very small amounts with no violation of State law. ____True ____False

22. The drug laws are written to punish pushers rather than users. ____True ____False

EDUCATIONAL OBJECTIVES
CHAPTER VI: ALCOHOL, TOBACCO, DRUGS & MARIJUANA

Each student will be able to:

1. Define an alcoholic beverage and identify the two types.
2. Explain when one can legally consume and when one consumes illegally.
3. Identify at least one situation of an adult illegally supplying a minor with alcoholic beverages.
4. Identify at least one penalty for liquor store owners and their employees who sell to minors.
5. Identify at least one consequence for damage caused by minors who illegally consume alcoholic beverages to:
    a. Store owners
    b. Store employees
    c. Parents
    d. Friends
6. Identify the penalty for using false identification to buy alcoholic beverages.
7. Identify the penalty for possession of alcoholic beverages by a minor.
8. Identify rules for legal presence of minors in places selling alcoholic beverages and who may be penalized if minors are present.
9. Identify the change in the law regarding being drunk in public places.
10. Identify the consequences for anyone under 18 using tobacco and for those persons selling tobacco to them.
11. Define a narcotic or dangerous drug.

12. Identify conditions under which one can legally possess dangerous drugs.

13. Identify which drug-related crimes have mandatory sentences established by statute.

VI. ALCOHOL, TOBACCO, DRUGS & MARIJUANA

A. Alcohol

WHAT IS AN ALCOHOLIC BEVERAGE?

Generally, an alcoholic beverage is any drink which can make people drunk when taken in large quantities. Minnesota law divides alcoholic beverages into two types and defines each exactly. The first type is "non-intoxicating malt liquor"; it contains not less than one-half of one percent alcohol by volume and not more than 3.2 percent alcohol by weight. (Minn. Stat. Sec. 340.001 (2)) Most people call this "3.2 beer." The second type of alcoholic beverages is called "intoxicating liquors"; these contain more than 3.2 percent alcohol by weight. (Minn. Stat. Sec. 340.07 (2)) This group includes strong beer, wine, and "hard liquor."

1. Buying & Drinking

MAY I BUY OR DRINK 3.2 BEER?

It is a misdemeanor for anyone under 18 to buy 3.2 beer or to drink it unless he is with his parents. (Minn. Stat. Sec. 340.035)

MAY I BUY OR DRINK HARD LIQUOR, WINE, OR STRONG BEER?

It is illegal for a minor to consume, buy, attempt to buy, have another buy for him or enter a liquor store to try to buy any of these "intoxicating liquors." (Minn. Stat. Sec. 340.731) All of these acts are misdemeanors. (Minn. Stat. Sec. 340.732)

2. Sale

CAN THE PERSON WHO SELLS ME LIQUOR GET INTO TROUBLE?

Yes. There are strict penalties which make most bar and liquor store owners careful to check the ages of their customers. First, it is a gross misdemeanor to sell "intoxicating liquor" to a minor (Minn. Stat. Sec. 340.73) and a misdemeanor to sell 3.2 beer to a minor. (Minn. Stat. Sec. 340.035) Both the owner of the bar or liquor store and the employee who actually made the sale could be prosecuted. (Minn. Stat. Sec. 340.941)

Second, the seller could be found guilty of "contributing to the delinquency of a minor," a misdemeanor in Minnesota. (Minn. Stat. Sec. 260.315; State v. Sobelman, 199 Minn. 232, 271 N.W. 484 (1937))

Third, the owner's license could be taken away, or at least suspended, if he sells liquor to a minor. (Minn. Stat. Sec. 340.135) This would mean that he would not be allowed to sell liquor any longer and could close up his business. Suspension is possible even if only 3.2 beer is sold to a minor. (Minn. Stat. Sec. 340.01; Op. Atty. Gen., 217-B-9, January 30, 1952)

Fourth, if you get drunk and injure another person in an automobile accident or a fight, the seller of the liquor could be sued and forced to pay for all the damage you caused. (*Minn.* *Stat.* Sec. 340.95) He is liable because he sold liquor to you illegally, and this is true even if it was only 3.2 beer.

IF AN OLDER FRIEND GIVES ME A DRINK OR BUYS LIQUOR FOR ME, CAN HE GET IN TROUBLE?

Yes, the law treats this just as if it were a sale. It is a gross misdemeanor to give "intoxicating liquor" to a minor (*Minn.* *Stat.* Secs. 340.79 and .73) and a misdemeanor to give 3.2 beer to a minor. (*Minn.* *Stat.* Sec. 340.035) The friend could also be found guilty of contributing to the delinquency of a minor. (*Minn.* *Stat.* Sec. 260.315)

3. I. D.

WHY DO I NEED A DRIVER'S LICENSE OR STATE CERTIFICATE TO BUY ALCOHOLIC BEVERAGES?

Only a valid driver's license or current non-qualification certificate issued by the state is sufficient I. D. to purchase, possess or consume alcoholic beverages. (*Minn.* *Stat.* Sec. 340.033)

WHAT CAN HAPPEN IF I BORROW SOMEBODY'S I. D. TO BUY LIQUOR?

It is a misdemeanor to lie about your age to buy liquor, even if it is only 3.2 beer. (Minn. Stat. Secs. 340.035, and 340.731) If your friend lent you his driver's license, he could also get in trouble. It is a misdemeanor to lend a driver's license to another person. (Minn. Stat. Sec. 171.22)

4. Possession

CAN I GET IN TROUBLE FOR JUST HAVING LIQUOR EVEN IF I'M NOT CAUGHT DRINKING?

It is a misdemeanor for anyone under 18 to possess "intoxicating liquor" under any circumstances or to possess 3.2 beer if he intends to consume it in any place other than his parents' home. (Minn. Stat. Secs. 340.035 and 340.731) Possession does not necessarily mean that you have to have the liquor in your hand; it is enough if you have control over it. (Op. Atty. Gen., 217-F-3, July 22, 1966) In addition, it is a violation of the "open bottle law" and a misdemeanor to have an open container of liquor in your car while it is on the road even though you have not drunk any of the bottle's contents. (Minn. Stat. Sec. 169.122)

WHAT ABOUT LIQUOR IN SCHOOL?

It is a misdemeanor for any person to have intoxicating liquor or nonintoxicating malt liquor on school grounds or in a school building. (Minn. Stat. Sec. 624.701)

5. Bars & Restaurants

CAN I GO INTO A PLACE THAT SERVES LIQUOR IF I ONLY BUY FOOD OR DANCE?

While you would not be guilty of any crime, it might be illegal for the owner to allow you to do this. It is illegal for the seller to permit a minor to "loiter" (hang around) or to be in a room where 3.2 beer is sold unless he is accompanied by his parents. (Minn. Stat. Sec. 340.035) It is not completely clear what loitering includes here, but the statute has been interpreted to forbid holding dances for minors on the premises if 3.2 beer is sold (Op. Atty. Gen. 217-F-3, March 10, 1955); to forbid the seller to allow minors to play pinball on the premises (Op. Atty. Gen., 217-F-3, November 19, 1953); and to forbid allowing minors to stand around and smoke if beer is served on the premises. (Op. Atty. Gen., 217-F-3, June 9, 1945) On the other hand, it is legal to allow minors to attend a baseball game where 3.2 beer is sold (Op. Atty. Gen., 218-G-15, August 13, 1945) and to serve them lunches on the same premises, though not in the same room. (Op. Atty. Gen., 217-F-3, April 6, 1950) To avoid trouble with the law many pizza places have one room in which they serve no beer and refuse to allow their minor customers to enter the room in which they do serve beer.

It is probably illegal for the owner of a place which sells hard liquor to allow you to enter at all even if you do not drink or attempt to do so if allowing you in might contribute to your delinquency, or if your parents have given him written notice that you are a minor. (Op. Atty. Gen., 217-F-3, September 17, 1964) However, minors can enter the premises if the sale of intoxicating liquor is not one of the main activities of the business; for example, a drug store which sells a small amount of bottled liquor can safely allow you to enter. (Op. Atty. Gen., 217-F-3, 218-J-12, December 8, 1953)

6. Drunkenness

WHAT CAN HAPPEN TO AN OLDER PERSON WHO IS DRUNK IN PUBLIC?

Before 1971 public drunkenness was a crime. The State Legislature changed that law and now persons who are intoxicated in public or who are arrested while intoxicated are taken to "detoxification centers" where they may be confined for up to 72 hours. (Minn. Stat. Secs. 245A.01 and .10) They are not confined for punishment, but so that they can be sobered up and given shelter, food and counseling. However, if a person causes a disturbance or commits a crime while drunk he may still be arrested and put in jail as a result. Driving while under the influence remains a crime.

B. Tobacco

IS IT LEGAL FOR ME TO SMOKE?

No. Anyone under 18 who uses tobacco may be jailed for 30 days and fined up to $50. This includes cigarettes, cigars, pipes and even chewing tobacco. (Minn. Stat. Sec. 609.685)

IS IT LEGAL TO GIVE A CIGARETTE TO A FRIEND?

No. It is illegal to "furnish" (sell or give) tobacco to anyone under 18. You could be punished by 30 days in jail or a fine of $50. (Minn. Stat. Sec. 609.685)

CAN A PERSON WHO SELLS ME CIGARETTES GET IN TROUBLE?

Yes. He would be guilty of furnishing you with tobacco and could be punished under the law described above. Also, persons who own or lease cigarette vending machines are required to post a large sign on them which states that it is illegal for persons under 18 to buy cigarettes. If the owner fails to post a sign like this, he is guilty of a misdemeanor. (Minn. Stat. Sec. 325.765)

C. Drugs & Marijuana

1. Narcotics & Dangerous Drugs

WHAT IS A NARCOTIC OR DANGEROUS DRUG?

The law lists all of the drugs, chemicals or medicines which it considers to be narcotics or dangerous drugs by name. There are too many to list here, but in general any drug which is dangerous to take without the advice of a doctor is included in the laws about narcotics and dangerous drugs. (Minn. Stat. Sec. 152.02)

WHAT ARE THE MOST COMMON TYPES OF DRUGS?

The law divides drugs into five groups:

1. Drugs which have no medical use and which are dangerous even if given by a doctor. Examples are heroin, L.S.D., and marijuana. These drugs are grouped together by the law even though they have different effects on the person taking them, because they are all drugs that no doctor will ever prescribe to you. There is no state statute which permits doctors to prescribe these drugs.
2. Drugs which have a medical use in a few circumstances but which are very dangerous and may lead to severe physical or psychological dependance or addiction. Examples are methadone, a drug which doctors sometimes give to heroin addicts in place of their heroin, and morphine and other very strong pain-killers, which doctors sometimes give to people in great pain.
3. Drugs which have medical uses and which are less dangerous than the drugs listed above, but which can cause some physical addiction and severe psychological dependance if abused. Examples are amphetamines and methamphetamines (uppers, speed, etc.) and strong barbiturates (downers).

4. Drugs which have medical use and are less likely to be abused than the drugs above but which may cause some physical or psychological dependance if abused. Examples are sedatives such as phenobarbital and paraldehyde.
5. Drugs which have medical use and are less likely to be abused than the drugs above *if abused.* Examples are codeine cough syrups and very mild pain killers. (*Minn. Stat.* Secs. 152.01 and .02)

WHAT DOES THE LAW SAY ABOUT USING THESE DRUGS?

It is legal to possess and use any of these drugs except the ones in the first group, if you have a written prescription for them from your doctor. It is illegal to:

1. Sell these drugs or give them away to another person.
2. Possess these drugs without a prescription.
3. Manufacture a drug like L.S.D. or grow marijuana.
4. Get drugs or even try to get drugs by altering a prescription or lying to get a prescription. (*Minn. Stat.* Sec. 152.11)
5. Drive while under the influence of drugs. (*Minn. Stat.* Sec. 169.121)

IS IT LEGAL TO POSSESS A SMALL AMOUNT OF MARIJUANA TO USE OR GIVE AWAY?

It is a misdemeanor to possess or to give away a small amount of marijuana. The law defines a small amount of marijuana as 1.5 ounces or less. If a person is convicted of a second offense within a year he can be required to participate in a medical evaluation. It is also a misdemeanor to keep or allow to be kept more than .05 ounces of marijuana in the passenger compartment of an automobile. (Minn. Stat. Sec. 152.15)

WHAT SHOULD I DO IF SOMEONE OFFERS TO GIVE ME A DANGEROUS DRUG?

It is a very serious crime for an adult to give or sell drugs to a minor; the sentence he would serve had he sold the drugs to an adult could be doubled. As a citizen you have a duty to report evidence of a serious crime to the proper authorities. (Minn. Stat. Sec. 152.15)

WHAT CAN HAPPEN TO ME IF I BREAK THE DRUG LAWS?

If you break these laws and are caught by the police you will have to go to juvenile court. Refer to the section on the Juvenile Court and also to the chart on the following page.

WHAT IS THE STATE OF MINNESOTA DOING ABOUT THE PROBLEM OF DRUG DEPENDENCY BEYOND ENFORCING THE LAWS?

Minn. Stat. Secs. 254A.03 and .08 establish the alcohol and drug abuse section of the Department of Public Welfare to develop rehabilitation programs. The act also requires all community mental health boards to establish a detoxification program for drug dependent persons in its area.

2. NARCOTICS OFFENSES & PENALTIES

Offense	Minn. Stat. Section	First Narcotic Offense	One Or More Prior Narcotic Offenses
Heroin (Or any other Opium or Coco Deriviative in Group 1 or 2)			
Possession	152.15	5 Years/$5,000	10 Years/$10,000
Sale or Possession with Intent to Sell	152.15	15 Years/$25,000	1-30 Years/$50,000
Obtaining by Fraud	152.15	4 Years/$30,000	8 Years/$60,000
L.S.D., Marijuana, Speed (Or any other Drug in Groups 1, 2, or 3 which is not an Opium or Coco Leaf Derivative			
Possession	152.15	3 Years/$3,000	6 Years/$6,000
Sale or Possession with Intent to Sell	152.15	5 Years/$15,000	1-10 Years/$30,000
Obtaining by Fraud	152.15	4 Years/$30,000	8 Years/$60,000
Any Drug In Group 4			
Possession	152.15	3 Years/$3,000	6 Years/$6,000
Sale or Possession with Intent to Sell	152.15	3 Years/$10,000	6 Mos. - 6 Years/$20,000*
Obtaining by Fraud	152.15	4 Years/$30,000	8 Years/$60,000
Any Drug in Group 5			
Possession	152.15	1 Year/$1,000	2 Years/$2,000
Sale or Possession with Intent to Sell	152.15	1 Year/$1,000	2 Years/$2,000
Obtaining by Fraud	152.15	4 Years/$30,000	8 Years/$60,000
Very Small Amount of Marijuana (1.5 oz. or Less)			
Possession	152.15	90 Days/$300	90 Days/$300

*These are mandatory sentences; all the other penalties listed are maximum

PROBLEM 1

Knute Johnson, a 16-year-old Minnesotan, was accompanying his parents and a 12-year-old sister to the local pizza parlor. Knute's dad ordered a pitcher of beer and shared it with Knute's mother. Knute and his sister each had a small glass of beer.

Has Knute broken a law by consuming beer?

Has Knute's sisten broken a law?

Has Knute's father broken a law?

Has the owner broken a law?

Has the sales person who sold or served the beer broken a law?

How would the situation change if Knute and his sister consumed "hard liquor"?

PROBLEM 2

Joe, 17 years of age, borrowed an automobile from his friend, Charles, and went to a local tavern where, with the aid of a falsified driver's license, he was served several drinks containing bourbon whiskey. While there he met Sally, age 18.

Upon leaving the tavern they drove to a nearby secluded area where they shared a marijuana cigarette which Joe had brought with him. As they pulled away from the parking area they were stopped by a police officer who observed that the tail light on the automobile was burned out. He asked Joe to get out of the car, examined his driver's license and talked to him for a few minutes. Then, with the aid of his flashlight, the officer made a careful search of the car and uncovered some capsules which later proved to contain heroin. He also found the roach from the marijuana cigarette and, observing that both Joe and Sally were somewhat unsteady, arrested them. He then searched Sally's purse, finding some amphetamine capsules. Joe claims that he knows nothing about the heroin capsules and that they must belong to Charles, the owner of the car. Sally says that she got the amphetamine capsules with a doctor's prescription.

With what crimes may Joe or Sally be charged?

TEACHER'S NOTES
CHAPTER VI.

Response to the Self-Quiz should be as follows:

1. True (page 157)
2. False (page 157)
3. True (page 157)
4. True (page 157)
5. True (page 158)
6. True (page 158)
7. False (page 158)
8. True (page 159)
9. True (page 159)
10. True (page 160)
11. True (page 160)
12. False (page 160)
13. False (page 160)
14. False (page 161)
15. True (page 161)
16. True (See page 9, Chapter I)
17. False (pages 162 and 163) (No mention of mere possession)
18. False (page 164)
19. True (page 165)
20. True (page 165)

21. False (pages 165 and 166)

22. False (page 165) (This is a common misconception. The law punishes sale, possession and use.)

DISCUSSION OF PROBLEM 1

This question is not difficult to resolve with some knowledge of the alcoholic beverage rules. The question turns on whether the beer served in the pizza parlor was strong beer or 3.2 beer.

The text points out that 3.2 beer is classified as "non-intoxicating liquor" and might be consumed by minors accompanied by their parents. Thus, it is possible that none of the parties mentioned violated a law if the parents bought the beer and then gave some to the minors.

Strong beer is an "intoxicating liquor" on the other hand and cannot be bought or consumed by minors under any circumstances. All parties would have broken the law if the beer was strong. The same result would be true if Knute and his sister consumed hard liquor on the pizza parlor premises. Discuss the degree of liability and the penalties for each of the parties mentioned in the text - children, parents, owner, sales person - which can be obtained from the text.

DISCUSSION OF PROBLEM 2

This problem should elicit a discussion of the differences among the various types of drugs as well as a discussion of the liquor laws.

The student should be aware of the fact that Joe, being a minor, may be treated differently for consuming alcohol than Sally, who is of age. They should also be aware of the fact that there is no longer a crime of drunkenness in Minnesota, and that while Joe might be charged with operating a motor vehicle while under the influence of alcohol, neither he nor Sally could be punished for drunkenness as such.

The possible charges of possession of marijuana, use of marijuana, possession of heroin, possession of amphetamines and the possible legal defenses to these charges should be discussed. The problem indicates the presence of only one marijuana cigarette which should elicit a discussion of the difference between possession of a small amount and a large amount of that substance.

The problem leaves open the question of the problems of the propriety or lack thereof of the search made by the police officer. This question could be the subject of the rather extensive research project which would carry the student right up to very recent United States Supreme Court cases. Such research might start with a review of the materials in Chapter V - A - 2.

APPENDIX A

HOW TO ENFORCE THE LAW

You have had a quick view of your legal rights and responsibilities. How do you enforce these rights? Sometimes informal pressures - such as the desire to secure the good opinion of fellow citizens - will bring about compliance. However, sometimes there is a dispute as to what a person's legal rights and responsibilities are, and citizens must resort to the courts to settle the matter

Courts have two distinct functions: a) to determine the facts in disputed situations, and b) to determine the law applicable to the facts. Juries are frequently used to determine facts, but judges determine the law which is applicable. In some cases there is no jury; then the judge will also determine the facts. Usually, there must be some dispute before a lawsuit is brought, though there are some proceedings in which there is no immediate controversy but which are brought in a court to be sure the rights of all affected parties are protected.

JURY TRIAL

The Constitutions of the United States and the State of Minnesota guarantee every person accused of crime a trial by jury. A jury is impaneled from the qualified voters in the district, and the usual number on a jury is twelve. The jury hears the evidence and if testimony is in conflict, it is the duty of the jury to decide which testimony is to be believed. (See U.S. Constitution, Amendment VI and Minnesota Constitution, Art. I, Secs. 4 and 6).

We have seen that most court cases are civil rather than criminal. Is a person entitled to a jury in every civil case? The Seventh Amendment to the United States Constitution provides: "In suits at common law, where the value in controversy shall exceed twenty dollars the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law." Art. I, Sec. 4 of the Minnesota Constitution says: "The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy, but a jury trial may be waived by the parties in all cases in the manner prescribed by law; and the legislature may provide that the agreement of five-sixths of any jury in any civil action or proceeding, after not less than six (6) hours' deliberation, shall be a sufficient verdict therein." You will notice the reference to "cases at law" here, and the federal constitution's reference to "suits at common law." These phrases refer to the types of cases which were regarded as common law cases at the time the Constitution was adopted and are especially distinguished from cases in equity.

What is equity? It is a system emphasizing justice and fairness rather than mere reference to specific rules or statutes. There are several equitable principles which have come down to us such as: "Equity looks upon that as done which ought to have been done"; "Equity suffers not a right without a remedy"; "Equity follows the law." Perhaps an example might help to define equity. If "A" buys merchandise from "B" and agrees to pay $100 for the merchandise, but fails to make the payment when it is due and refuses to pay, "B" may bring a legal action to collect the $100 due on the contract. He might demand that a jury determine whether the full amount is owed or whether "A" actually did make the promise to pay for the goods. This would be an action "at law." However, if "A" encroaches on "B's" property by tearing down a fence and using part of "B's" property for a driveway, "B" may want "A" to stop the encroachment instead of wanting damages for the property taken. "B" would then ask a court to enjoin "A" from further interference with "A's" property as well as damages for the unwarranted interference, and his seeking this injunction would be an equitable action. Frequently there are elements of both law and equity in one case. If there is an adequate remedy at law, an action in equity is not available.

The British legal system from which our American system evolved has separate judges in law and equity. Equity matters were also called chancery matters, because the chancellor, one of the King's advisors, decided these cases originally. Courts of equity or chancery sprang from the authority of the church and were designed to appeal to the conscience. In America the same courts were authorized to try cases in law and equity, but the rules governing the two types were different. Juries were never used in equitable matters. You can see that much of the distinction between law and equity is historical, but this history determines whether there is a right to a jury trial. The distinction is mentioned because despite the constitutional provisions, not all civil suits require jury trials.

Beyond that, if the question is solely one of interpretation of the law, a jury is not impaneled - the solution of such problems is the duty of the judge. Also, two parties to a lawsuit may agree on a statement of fact but ask the court to determine the consequences, and sometimes even if there is a dispute as to facts, the parties leave the fact finding to the judge.

ADMINISTRATIVE TRIBUNALS

Statutes setting up new rights and duties have sometimes set up administrative tribunals to hear and decide the facts; these usually concern rights which do not exist at common law. In such cases a trial by jury is not available. An example is workmen's compensation. This is a system of law enacted by the legislature which provides certain specific payments to employees injured in the performance of their duties or while at the place of employment, regardless of fault or assumed risk which could be otherwise attributed to the employee. The payment is made to the employee if he is injured, or to specified dependents if he is killed in such an accident. The law sets up a schedule of payments, and the compensation judges (appointed officers) hear disputed cases to determine if the injury or death arose out of the injured party's employment and the extent of the injury or disability. Appeals from the compensation judge are heard by an appointed three-member Workmen's Compensation Commission. Any appeal from the decision of the commission is taken directly to the Supreme Court of Minnesota. A jury is not impaneled at any stage of the proceedings. The facts as found by the commission are not changed unless not supported by the evidence, though the Court may believe the commission did not follow the law in applying it to the facts found. Direct appeals are also taken from such administrative tribunals as the Tax Court of Minnesota, the Department of Employment Services and the Commerce Department, among others. In none of these proceedings is there a jury, and usually the facts as found by the tribunal are given the weight of facts found by a jury if there is evidence in the record to support the finding, even if reasonable people might come to a different conclusion based on the same evidence. Basically, it is felt that the trier of fact, observing the witnesses, is in a better position than a court hearing the appeal to decide between conflicting witnesses unless the record simply does not provide a basis for the decision.

THE MINNESOTA COURT SYSTEM

Having mentioned tribunals which are not part of the regular court system, let us proceed to an outline of the Minnesota court system. Minnesota has a Supreme Court established by the state constitution, a district court and a system of county courts. In most counties of the state the county court serves more than one county, but there is a clerk of court in each county. Hennepin and Ramsey Counties have municipal courts whose jurisdiction extends to the entire county, each having several judges called municipal judges in those counties. Dakota and Anoka Counties each have five county judges. The tri-county district of Stearns, Sherburne and Benton has five judges for that tri-county district. Hennepin and Ramsey Counties have separate probate courts to handle administration of deceased persons' estates, guardianships and incompetency proceedings.

COUNTY COURTS

In the eighty-five counties which operate under the county court districts, the county court has power to try cases in actions at law in which the amount in controversy does not exceed $5,000 (except for cases involving title to real estate), misdemeanors, ordinance violations, preliminary hearings on other criminal offenses committed within the county and juvenile proceedings, as well as handling the administration of estates of deceased persons, guardianships and incompetency proceedings.

These county courts also handle forcible entry and unlawful detainer matters involving land within the county. This type of action is used by a landlord who wants to evict a tenant. He charges the tenant with "unlawfully detaining" his property; the tenant is served with notice of the hearing and is given a chance to appear in court. There the landlord presents his evidence (for example, non-payment of rent or failure to observe a notice terminating the tenancy), and if the tenant is guilty the court orders his removal and sets a date for such removal. If the tenant disproves the allegation (as by producing a receipt for the claimed due rent or by proving the notice terminating his tenancy was inadequate), the court denies the plea for his removal.

These county courts may also hear proceedings relating to trusts, proceedings for divorce or separate maintenance, proceedings for adoption or change of name, proceedings under the reciprocal enforcement of support act and proceedings to quiet title to real estate or mortgage foreclosures "by action."

In Ramsey County the St. Paul Municipal Court tries matters when the amount in controversy does not exceed $6,000. It may not entertain actions asking for equitable relief, divorce or issue certain writs. The jurisdiction of the Municipal Court of Hennepin County is also limited to cases where the amount in controversy does not exceed $6,000. These municipal courts may also entertain actions relating to forcible entry or unlawful detainer, try persons accused of minor crimes and ordinance violations and hold preliminary hearings in other cases. The jurisdiction of the municipal courts in Hennepin and Ramsey Counties extends to all of the country.

Each county court or municipal court tries cases arising in the county or counties where the court is located, and all of them are "courts of record." If appeals are taken, those appeals are based on the written record.

DISTRICT COURTS

The District Court of Minnesota is defined as being one court, though there are ten judicial districts. Judges of the district court must be residents of the districts where they preside at the time they are elected and during their terms of office. The legislature may alter the number of judges or the boundaries of judicial districts, but the office of a district judge may not be abolished during his term of office. There must be at least two district judges in each district. District courts have original jurisdiction in almost all civil and criminal cases except probate matters (estates, guardianships). A district judge may be assigned to a district other than the one in which he was elected when the Chief Justice of the Supreme Court determines a need for his services exists in another district so the work of the various districts may be more equally distributed. District courts may take both legal and equitable matters and are not limited by dollar amounts in their jurisdictions. Also, any district judge may be assigned to assist the Supreme Court for a temporary period. Even though the county court or municipal court might have the power to try a case, the case might be brought in district court because these courts have concurrent jurisdiction over many of the matters which the county or municipal courts could try. Except in Hennepin County, a district court may hear appeals from conviction of a municipal ordinance. If such a conviction is appealed, and the appellant did not have a jury trial in the first court, he may demand a jury in the district court and get a complete new trial. The district court does not hear appeals from county or municipal courts in civil cases, but certain appeals from the probate courts to the district court are provided.

In some districts there is some specialization of duties. In the Second Judicial District (Ramsey County), one district judge is designated as a family court judge to handle divorce and related matters, and he may be assisted by other judges. In the Fourth Judicial District (Hennepin County), one district court judge is designated a family court judge by the chief judge of the district with the approval of a majority of the judges of the district. Also, in Hennepin and Ramsey Counties, a district judge handles juvenile court matters - one in each district. In the less populous counties, the county courts would handle the family court matters and juvenile matters.

THE SUPREME COURT

The Supreme Court of Minnesota is the state's highest court. It is composed of a chief justice and not less than six, nor more than eight associate justices. At present, the Court has the full number of justices authorized. The Supreme Court is primarily an appellate court, hearing appeals from district courts and from the various administrative tribunals established by statute. There is no jury trial in the Supreme Court; facts are accepted as found by the lower court or administrative tribunal in most cases; and since the jury's function is the finding of fact, this is a function which is not present in the Supreme Court. This Court also may make rules regarding the conduct and disciplining of attorneys, including suspension from practice or disbarment. It also determines rules of pleading and procedure (the process of bringing and trying court actions) for all the courts in the state. Other courts may adopt rules for their own conduct not in conflict with the Supreme Court rules. As an example, the Supreme Court may decide the form a complaint (a document stating the grounds for the court action) should take, but the judges in a particular district might specify that the pleading be flat and unfolded with no cover, while another district may want it covered with a folder and folded. Also, within certain limits set by legislation, the courts determine their own times of meeting and their calendars (the order in which cases will be heard).

Jurors for state courts may be selected from qualified voters of the county or district in which they serve, and the same list may be used by both the district, county or municipal courts in the large counties. Examination of jurors is conducted by the court or by the respective attorneys for the parties to a lawsuit before the court at the start of a trial, and if it appears a juror is closely connected with one of the parties, or is prejudiced, that juror may be challenged (removed from the jury panel) for cause. The attorneys for each litigant also have a limited number of "peremptory" challenges, which may be used to strike from the panel prospective jurors the attorney does not want without giving any reason for not wanting that panel member.

All state judges in Minnesota from the Supreme Court judges to the judges of county, municipal or probate courts are subject to election for terms set by statute. To be eligible to run for election, the candidate must be "learned in the law," which has been interpreted to mean a person admitted to practice law in Minnesota and not under suspension or disbarment. District court judges must be residents of the district in which they are to serve, and county judges of the county-district in which they will serve, even though the chief justice may temporarily make assignments to help in other districts.

CONCILIATION COURT

Because a successful lawsuit is best tried by people who know what court is appropriate for the matter involved and the technical rules of procedure, as well as applicable law, the matter of conducting trials or lawsuits is reserved to attorneys admitted and licensed to practice by the Minnesota Supreme Court. An exception to this rule is the right of any person to represent himself without counsel if he so wishes. There is also an exception in divisions of the municipal court or county court, which are called conciliation courts. In such courts, one municipal or county judge hears the participants in a less formal setting than in the ordinary court case. Sometimes lawyer-referees are used to hear cases. Usually the complainant states his complaint to the clerk of the court, who sends a copy of the complaint by mail to the opposing party, who must be a resident of that county, and sets a date for trial. At the appointed time each party appears and gives the judge his version of the controversy with any written or other evidence in his possession and the judge decides the controversy. Neither party in these conciliation courts is required to have an attorney. There are no formal pleadings.

Relief is limited to recovery of money, and the amounts in controversy may not exceed $500. There is no jury in a conciliation court. Either party may appeal a conciliation court judgment to the regular municipal or county court; then the filing fees, pleadings, representation by attorneys, etc., are the same as in any other case.

If there is a vacancy in any of the state courts, the governor fills the vacancy until the general election occurring more than one year after the date of appointment, when the appointee is subject to election.

APPEALS

If you are a party to a lawsuit and lose, what can you do? Of course you can accept the judgment as rendered. Some cases may be appealed to a higher court, because the law applied is thought to be in conflict with the constitution or with previous decisions of the Supreme Court. When the Supreme Court has ruled on a matter, the state courts must follow that decision. This is partly so the administration of justice will be uniform, and partly so that ordinary citizens may plan their affairs with some degree of certainty as to the results. The theory behind this practice is that if the Supreme Court is in error the people, through the legislature or by constitutional amendment if it is a constitutional question, may change the effect of the decision. Usually a court will not reserve its own decision or overrule an earlier decision.

If the judge in the trial court gave erroneous instructions to the jury, permitted evidence which should not have been permitted, if an attorney in his argument referred to facts which had not been placed in evidence, or if there is no evidence in the record to support the verdict or judgment, then an appeal may be taken. Sometimes the original decision is reversed; sometimes the matter is remanded (sent back) to the lower court for more evidence on a specific point; and sometimes the appellant, whose motion for a new trial may have been denied, gets a new trial. However, there must be some reason which is considered by the law to be a reason for appeal - not simply the disappointment of the losing party. Also, any appeal must be filed within specified times and in proper form.

Once a lawsuit has been finally decided, the parties cannot bring the same matter into court again. That is, if a party lost his case, he cannot file a new suit hoping that a new jury might give him a different result in the same set of circumstances.

ARBITRATION

We have alluded to triers of fact other than juries, such as administrative tribunals. It is also possible that two parties to a dispute might agree to submit the question in dispute to an arbitrator. The Statutes provide that where two parties have agreed to submit a dispute to arbitration, the arbitrator's award (decision) will be enforced by the courts, unless there is fraud on the part of the arbitrator or the arbitrator exceeded the authority given him by the agreement of the parties. If two parties agree to arbitrate and dispute in certain circumstances and then one party refuses to proceed to select an arbitrator, the court will even select the arbitrator. (Minn. Stat. Sec. 572.10)

FEDERAL COURTS

We should not ignore federal courts in a discussion of Minnesota law. The United States has federal district courts, circuit courts of appeals and the United States Supreme Court as well as specialized courts such as the Federal Court of Claims and the Federal Tax Court. Access to federal courts is somewhat more restricted than access to state courts in ordinary civil matters. For example, in suits between citizens of different states, the constitution provides that the federal courts have jurisdiction but the amount in controversy must exceed $10,000 before such a case can be brought into federal district court. This does not leave the parties without recourse. The moving party, usually called the plantiff, can sue in the courts of the state where the defendant is found if adequate service (notice of court action) is made on the opposing party; then the state court may be used to enforce his claim. If the claim is for a sum of money arising out of a contract made in Minnesota, which was to have been performed in Minnesota, then Minnesota law is applied by the state court trying the suit. Similarly, you might use Minnesota courts to enforce rights granted under federal law. Suppose you are employed in an industry subject to the federal wage-hour law for less than that law specifies in wages. That wage-hour law gives an underpaid employee the right to sue the employer for the underpayment for up to two years previous, and in addition, an equal amount as damages for the underpayment. You can sue such an employer in the Minnesota state courts for this double payment of the amount due under federal law, and the state courts then will be enforcing federal law.

It is a fundamental principle that the State of Minnesota or the United States Government cannot be sued without their consent. The United States Court of Claims was set up to entertain suits against the United States under laws passed by Congress specifying when suits against the United States might be brought. Minnesota has a State Claims Commission - a body of legislators, three from each house - with the authority to hear claims against the state which are not capable of being brought in the courts. If the claim is small ($250 or less), the commission may decide the claim should be paid; and if funds are available in the budget of the department from whose funds it should be paid, it is paid. In the case of larger claims or where no funds are available, the commission makes recommendations to the legislature, and then the legislature appropriates money for approved claims.

Sources: United States Constitution
Minnesota Constitution
Minnesota Statutes, Chapters 480, 484, 487, 488, 488A, and 491

APPENDIX B

DUE PROCESS & EQUAL PROTECTION

The Student Lawyer is not intended to be a comprehensive look at the entire body of law. We have attempted to place laws in your booklet which would be of interest to students. We may have left some out; we may have included some which were not of interest to you. Nevertheless, the concept behind The Student Lawyer is that, to paraphrase a famous expression, law is too important to be left to the lawyer. The law is every citizen's responsibility. Each citizen, no matter what sex, age, national origin or experience must know something about the law. Society cannot function with an uneducated populace.

In light of this concept, the Appendix will deal with two fundamentally important ideas embodied in the Fourteenth Amendment to the United States Constitution. The Amendment states:

> "Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Our subject concerns two key rights extended to all citizens by that amendment: "due process of law" and "equal protection of the law."

DUE PROCESS OF LAW

What does due process of law mean? This question can be illustrated with another question. Is it really fair that the authorities can legally take my old jalopy, which has been parked in front of my house on a city street for more than two days, auction it off and keep the money without notifying me? The concept of due process involves this idea of "fair play." Due process is essentially a question of fundamental fairness. Examining fundamental fairness, two areas must be discussed: one regarding the substance of the law, the other regarding the procedure by which the law is carried out. Is the law itself fair? Is the procedure by which the law is carried out also fair? The Fourteenth Amendment forbids a state to deny any person within that state life, liberty or property without due process of law. In other words, no person can be denied any of these three basic individual rights without some sort of fair system of rules and procedures.

A look at the historical development of the right to counsel should provide some insight into the fundamental fairness concept of due process. In the past, the Fourteenth Amendment meant that as long as the state provided fundamentally fair laws, enforced them in a fundamentally fair way and set up fair procedures, a person's life, liberty or property could be taken away from him after having gone through the process of trial.

For example, a person was charged with the crime of "theft under $100." He could not afford an attorney to represent him. As long as *he was granted* a fundamentally fair trial in which he was afforded his full trial rights, due process of law would not be violated if he was found guilty, even though no attorney assisted him during the proceedings. It was presumed by the Supreme Court that the judge would guard the defendant's rights and - the offense was a minor one anyway. This rationale was felt to be reasonable and also necessitated by the prohibitive costs of providing an attorney to every person charged with a crime.

In addition to the above considerations many state courts felt that the Fifth Amendment to the United States Constitution, which also embodied the due process concept dealt only with the federal courts. The United States Supreme Court itself felt that the first ten amendments dealt only with the federal judiciary and that Fourteenth Amendment due process did not apply Fifth Amendment due process standards to the states but was included so that the states would provide their own fundamentally fair systems of justice. Remember, the Constitution was set up to provide both a federal system and individual state systems. The Tenth Amendment, the last amendment in the Bill or Rights, states "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people."

Due to this famous "states' rights" amendment, the Supreme Court felt for many years that due process under the Fourteenth Amendment, which deals with the states, meant something different from due process of law under the Fifth Amendment, which deals with the United States Government. Thus, in cases other than those punishable by death, counsel was provided to poor persons charged with crime only under "special circumstances." There was no general rule for providing counsel.

In relatively recent times the Court has reversed its position and begun to incorporate the due process of law of the Fifth Amendment into the due process of law specified in the Fourteenth Amendment. Returning to our example of the right to counsel, in 1963 the Court held that the states were required by the due process clause of the Fourteenth Amendment to furnish counsel to all poor persons charged with felonies. (Gideon v. Wainwright, 372 U.S. 335 (1963)) The Court has since broadened this concept to entitle a poor person to appointed counsel at trial and on appeal, when being interrogated by the police, when being viewed in a police lineup after being formally charged with a crime, and at preliminary hearings on a felony charge. The right to counsel was extended to juvenile proceedings in the Gault case we discussed earlier and to revocations of probation or parole in most cases.

In the latest development, the Court has extended the right to counsel implied by the Fifth and Sixth Amendments through the Fourteenth Amendment to any person charged with any offense for which he may be confined (jailed). In other words, no person may be jailed without having had the assistance of counsel before a plea is entered. If there is "a significant likelihood" that a defendant could be jailed, he must have the assistance of counsel. Argersinger v. Hamlin, 407 U.S. 25 (1972) If the person cannot afford an attorney, the State must provide him one for his defense.

Due process of law means more than just having the right to a lawyer's assistance. Fundamental fairness certainly means more. It means, substantively, that any law must be fundamentally fair and reasonable. Furthermore, the law must provide a fair, reasonable and rational system of procedures applicable to all persons. This means effectively that all laws must incorporate many of the rights provided in the Constitution.

The due process of law concept has helped make our Constitution a living and working document, not only for the past and present, but also for the future. As society progresses and becomes more sophisticated, its concept of what is fundamentally fair can change; so, therefore, can the concept of due process of law.

EQUAL PROTECTION OF THE LAW

As we have already seen, the Fourteenth Amendment provides for due process of law and equal protection of the laws. Equal protection of the law is an almost self-defining proposition; that is, each and every citizen is guaranteed the same treatment under the law. But this leads you to an obvious question: if the Fourteenth Amendment does not permit the State to deny any person within its jurisdiction equal protection of the law, why can I as a student be treated different from adults? This question can be asked in a more specific manner. For example: Why do I have to attend school when an adult does not? Isn't that unequal protection of the laws? We have already examined the Minnesota statute which says that every student between the ages of 7 and 16 must attend school. We have also seen that in many areas students or minors are in a different category from other people. How can this be done when the Fourteenth Amendment seems to prohibit classification of people? Isn't classification of people in fact unequal protection of the laws?

The United States Supreme Court has addressed itself to this question on many occasions. The Court has said that classification of people is not necessarily unequal protection of the laws. Rather, as long as the classification is reasonable, that is the law which the State has passed classifies people on a reasonable and rational basis, such a law is constitutional. However, the Court has set up a further test beyond the reasonable test. The Court has said that: a) when the State starts to deal with a fundamental interest of the person (for example, freedom of expression), or b) when the State attempts to classify based on a suspect classification (for example, by race), the State must show a compelling interest in classifying in this manner, or such a law will be presumed to be unconstitutional because it denies equal protection of the laws. Compelling interests might be public health, public safety or a serious need for uniformity of regulation.

What does the reasonable basis test and the compelling interest test mean to you as a student? The United States Supreme Court has recently said in the case of San Antonio School District v. Rodriquez, 411 U.S. 1 (1973), that it is permissible for one district in a state to spend more money for the education of its students than another district in that state. So, District A may be able to spend $1,200 for each student on his or her education, whereas District B may only be able to spend $690 on each student for his or her education. The fact that District A is a wealthy community is irrelevant in terms of equal protection of the laws. Since the State has set up a reasonable method of obtaining tax money (i.e. property taxes), the fact that District A has a higher property tax upon which to raise the money is permissible. Such a method for financing education is reasonable, the Court felt; and therefore, even though the classification set up some degree of unfairness, such classification does not in fact violate the Fourteenth Amendment equal protection of the law concept. However, should any state set up a classification based on race (i.e., black students to attend all-black schools, white students to attend all-white schools), such a classification would be a suspect classification. At that point there is a burden on the state to show a compelling interest why such classification has been set up. If the state is not able to do so, such a classification will be considered a denial of equal protection of the laws to the citizens affected. Remember Tinker v. Des Moines Independent School District, 393 U.S. 503 (1969). Students do not shed their rights as citizens at the schoolhouse gate. If the state attempted, for example, to regulate a student's right to travel during the school year, such a classification might be considered unconstitutional since it denies the equal protection of the laws of the student in a fundamental interest; that is, the right to travel.

When dealing with classifications, every citizen must understand the differences between reasonable classifications and classifications based on a fundamental interest or suspect classifications. Sometimes these differences are very difficult to determine. When a regulation seems contrary to a citizen's fundamental interest or when two opposing fundamental interests seem to clash, a case in controversy is set up; there are two opposing parties who take differing views as to their rights and responsibilities under the law, and the matter becomes ready for a court determination. The orderly balancing of fundamental interests, one against the other, is at the heart of the need for the Supreme Court to be the final interpreter of the supreme law of the land, the United States Constitution.

AGENCIES OF ASSISTANCE

It would be an impossible task for a booklet which is intended to be used statewide to list every local agency of assistance. If we did so, we would have a book five times the size of this one. However, there are agencies which are common to every area to provide needed services. These agencies are rich informational sources on some of the topics we have covered. Perhaps a class project that might also be a great community service would be to list these various agencies and their functions.

1. The Local School District

   Under the auspices of the Minnesota Department of Education, the local school district provides a whole range of support and assistance programs. These are part of the department's goal to provide and maintain a general, uniform and high-quality education system in Minnesota, and to make available special education and training to persons who because of physical or mental disabilities cannot realize their full potential. Programs available throughout the state include the following: compensatory education for students who have fallen far behind their grade level, vocational-technical training for handicapped or disadvantaged students, work opportunity centers, pupil personnel services, the Youth Advocacy Corps for those students who have been in correctional institutions and drug information and crisis intervention training in cooperation with the Minnesota Department of Health.

2. The County Welfare Department

County welfare departments offer many services for those of high school age who are unable to provide for themselves. The social services division, child protection sections assist with family problems of child rearing, child development and marital functioning using educational and direct support services. This includes services to neglected children, children of separated families and to unmarried parents. The department can also assist in applying for employment training and providing direct assistance such as Aid to Families of Dependent Children. County welfare offices also assist individuals and families in crisis situations, such as mental illness hospitalization, detoxification of the chemically dependent and medical treatment.

3. Area Mental Health Centers

These area centers provide a broad range of services and activities including educational, counseling and crisis-intervention functions as well as traditional diagnosis and treatment. Most of these centers provide new services for the chemically dependent spanning a range from preventive education to post-treatment activities.

4. The Local Office Of The Department of Manpower Services

The Minnesota Department of Manpower Services administers the state laws relating to unemployment compensation and operates a statewide employment service. As a participant in federal manpower programs, the department offers vocational training programs, special services for the physically and mentally handicapped, minority group members, veterans and persons on welfare and a variety of programs to bring the chronically unemployed into the labor market. Along with such well known programs as the Job Corps and the Neighborhood Youth Corps, which provides short-term employment to young persons from low-income families, the department helps sponsor a summer youth employment program.

5. Drug Abuse Information And Assistance ·

As we mentioned in Chapter VI the State of Minnesota is taking affirmative steps against the drug problem. The Chemical Dependence Program, State Health Department evaluates and distributes educational material related to drugs, conducts crisis training and counsels individuals with drug-related problems. This program has helped develop drug education curricula and staff drug crisis training in several public school districts.

The Alcohol And Drug Abuse Section of the Department of Public Welfare conducts research into the causes and prevention of alcoholism and drug abuse, coordinates all alcohol and drug programs in the state, collects and distributes statistical data and developes alcohol and drug information programs. The program is carried out through and in cooperation with the activities of the twenty-five area mental health centers. In addition the section has set up seven regional centers to provide informational and technical assistance in solving local alcohol and drug problems.

The above-mentioned agencies can also be a source of referral to more specific agencies of assistance. For example, the county welfare department and its staff will certainly know of other social service agencies in the community. Such services might include youth service bureaus, drug referral units, treatment agencies, counseling agencies and public education programs. Also, for specific topics specific agencies might be contacted, such as departments of court services, local law enforcement agencies and county or local governments.